

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, January 10, 2014

SUBJECT	DESCRIPTION	PRESENTER
Introduction	Committee Page: Aaron Sweet	Chairman McKenzie
RS22433	A Concurrent Resolution to recognize Judge Edward J. Lodge for his fifty years of service on the bench of state and federal courts.	Senator Bart Davis
	<u>IDAPA 11 - Idaho State Police-Idaho State Racing Commission</u>	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. (page 3)	
Docket No. 11-0411-1301	11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses. (page 13)	

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

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

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, January 17, 2014

SUBJECT	DESCRIPTION	PRESENTER
	IDAPA 31 - Idaho Public Utilities Commission	Commissioner Paul Kjellander
Docket No. 31-0101-1301	31.01.01 - Rules of Procedure of the Idaho Public Utilities Commission - page 32	
Docket No. 31-7103-1301	31.71.03 - Railroad Safety and Accident Reporting Rules - page 45	
	IDAPA 34 - Secretary of State	Jeff Harvey, Uniform Commercial Code Supervisor
Docket No. 34-0601-1301	34.06.01 - Rules Governing the Electronic Recording of Real Property (New Chapter) - page 49	
	IDAPA 38 - Department of Administration	Teresa Luna, Director
Docket No. 38-0406-1301	38.04.06 - Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities - page 58	
Docket No. 38-0408-1301	38.04.08 - Rules Governing Use of the State Capitol Exterior - page 68	
	IDAPA 52 - Idaho State Lottery Commission	Amber French, Deputy Director of the Enforcement Division
Docket No. 52-0102-1301	52-01-02 - Gaming Rules of the Idaho State Lottery Commission - page 82	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 17, 2014

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** convened the Senate State Affairs Committee (Committee) meeting at 8:00 a.m. with a quorum present and announced that the first item on the agenda will be the rules from the Idaho Public Utilities Commission, presented by Paul Kjellander, Commissioner.

IDAPA 31 - Idaho Public Utilities Commission

31.01.01 - Rules of Procedure of the Idaho Public Utilities Commission (IPUC) - page 32

DOCKET NO. 31-0101-1301 **Mr. Kjellander** stated that the first change under this docket occurs in Rule 18.02 to allow the Commission to streamline the process of removing inactive utilities and railroads from the assessment process by allowing the IPUC to administratively remove those companies from the list of entities subject to the annual regulatory fee. It avoids the need to go through the formal and sometimes lengthy process of opening a formal case.

Rule 19 adopts the process by which attorneys who are not members of the Idaho Bar can represent clients in proceedings at the IPUC by adopting, by reference, the appropriate Idaho Bar Commission Rule.

Language was added in Rule 39 that helps the public receive updates about cases they are interested in by utilizing a free subscription service available through the IPUC website.

Any other changes are of a housekeeping nature and represent minor clean up of language associated with various petitions and filings before the IPUC.

DOCKET NO. 31-7103-1301 The changes made to this docket adopts, by reference, the latest federal railroad safety rules. **Mr. Kjellander** thanked the Committee and stood for questions.

MOTION: **Senator Werk** complimented Mr. Kjellander, thanked him for his service and moved, seconded by **Senator Stennett**, to accept **Docket No. 31-0101-1301** and **Docket No. 31-7103-1301**. The motion carried by **voice vote**.

DOCKET NO. 52-0102-1301 **IDAPA 52 - Idaho State Lottery Commission**

52-01-02 - Gaming Rules of the Idaho State Lottery Commission - page 82
Amber French, Deputy Director of the Enforcement Security Division (Division), brought this docket before the Committee. The proposed changes for this docket are due to the passing of **S 1127**. **S 1127** during the 2013 Legislative Session which contained statutory changes reflecting recommendations from the Attorney General's Office.

The rule changes beginning on page 93 added Rule 302.06 - Raffle Drawings. This rule protects the public from fraudulent raffles that can be perpetual in nature allowing an organization to avoid giving a prize away. The rule provides that an organization must be clear, transparent and accountable to the public for the drawing of the prize.

MOTION: **Senator Siddoway** moved, seconded by **Senator Lodge**, to accept **Docket No. 52-0102-1301**. The motion carried by **voice vote**.

DOCKET NO. 34-0601-1301 **IDAPA 34 - Secretary of State, Uniform Commercial Code - page 49**
Jeff Harvey, Uniform Commercial Code Supervisor, introduced the Rules Governing the Electronic Recording of Real Property which is a new chapter. The Electronic Recording Commission was created by the Legislature in 2007 when they adopted the Uniform Real Property Electronic Reporting Act. The Commission was required to develop standards to unify all forty-four counties in the reporting of real property records by electronic recording. To accomplish this goal, the Commission looked to other states, including Idaho's county representatives, legislators, and persons of interest and sought to create a standard with which everyone could agree. Information was requested from the Public Records Industry Association (PRIA) which is the recognized leader for public recording. **Mr. Harvey** walked the Committee through each section of the docket.

Senator Davis asked how many counties are currently participating or about to participate. **Mr. Harvey** responded that there are thirty-seven participating counties at this time. **Senator Davis** inquired if the PRIA standards, which are incorporated by reference into the rules, are the most current and best standards. **Mr. Harvey** deferred to Jim Morton, Ada County Recording Manager, to respond to that question.

Mr. Morton stated that their research showed that the 2007 PRIA standards are the most current. **Senator Davis** asked if both tif and pdf formats are available. Are the counties requesting one or the other or are they actually storing them in both formats? **Mr. Morton** answered that the systems have a native storage language in tif, but they have made pdf available if the counties wanted to use it. **Senator Davis** acknowledged the effectiveness of Ada County's digital recording system and thanked them.

Senator Siddoway asked for a brief list of the kind of documents that can be electronically recorded. **Mr. Morton** said that there are mortgages, title documents in general (95 percent are land documents exclusively), declaratory documents and judges' decrees.

MOTION: **Senator Hill** moved, seconded by **Senator Lodge**, to accept **Docket No. 34-0601-1301**. The motion carried by **voice vote**.

IDAPA 38 - Department of Administration

DOCKET NO. 38-0406-1301 **38.04.06 Rules Governing the Use of the Exterior of State Property in the Capitol Mall and Other State Facilities - page 58** and

DOCKET NO. 38-0408-1301 **38-0408-1301 Rules Governing Use of the State Capitol Exterior - page 68**

Ms. Teresa Luna, Director, Department of Administration, stated that during the 2012 Legislative Session, **H 693** was passed with an emergency clause instructing the Department to promulgate three sets of rules within thirty days. Those rules were to address the use of 1) the exterior of the capitol, 2) the interior of the Capitol Mall properties, and 3) the exterior of all Capitol Mall properties. The rules were brought to the Legislature during the 2013 Legislative Session.

The rules for the interior of the Capitol buildings were approved as written and are now in place. The Legislature requested changes to the other two sets of rules dealing with the exterior of the Capitol and the exterior of the Capitol Mall properties. Those revisions are before the Committee today and the changes to both dockets are similar in nature and include the removal of the definitions of event and exhibit, and all references to those definitions throughout the document. The definition of public use was modified as requested. There was a rewrite of the public use seven-day duration limit; a rewrite of the liability and indemnification provisions to clarify their intent; removal of the limitation on hours and locations of public use; and removal of the restriction on sound amplification. Certain parts of these rules were initially adopted by the Department following the 2012 Legislative Session. Those approved by the Legislature in 2013 were then challenged in federal court.

The amendments before the Committee remove the need for the court to consider some of those challenges but not all of them. The Department's Deputy Attorney General has advised the Department not to make any additional modifications to these rules as they plan to appeal the judge's ruling once final judgment has been entered. Approval of the temporary rules as proposed is needed for the appellate court to consider and decide whether the district court's conclusion will stand. In the meantime, the Department has worked closely with Capitol Mall Security, Facilities and Idaho State Police to ensure that they are not attempting to enforce any of the provisions that the judge had issue with in his November ruling.

Ms. Luna explained that the Notice of Rule Making for the temporary and proposed rules was published in the May 2013 Administrative Bulletin with allowance for a three week comment period. No written comments were received. The pending rule before the Committee was then published in the July 2013 issue of the Administrative Bulletin. The changes in this Docket are those that were requested and agreed upon by the House and Senate. **Ms. Luna** respectfully requested the approval of the pending rules as written. The Department believes it is consistent with the First Amendment and otherwise reflects proper stewardship over the Capitol Mall properties.

Senator Davis asked if the decision of the court is the final decision and, if not, will it happen soon. Also, are the proposed modifications to the rules pending rules or temporary rules? **Ms. Luna** responded that a final judgement has not been entered and she deferred further explanation to Clay Smith, the Deputy Attorney General.

Mr. Smith responded that these are temporary rules. **Mr. Smith** concurred and stated that all the rules in these dockets are temporary rules. **Senator Davis** stated that the digital version he is looking at says they are pending rules. Is the version he is viewing incorrect? **Mr. Smith** answered in the affirmative.

Senator Davis requested the date that they became temporary rules. **Mr. Smith** said April 5, 2013. **Senator Davis** inquired if when the district court considered the constitutionality of the Administrative Rules before the court, did the court order also consider the temporary rules? **Mr. Smith** answered yes. As a result of the consequences of the 2013 Legislature's action and the adoption of the new temporary, proposed rules, there was an additional round of briefing that was directed to the temporary proposed rules. In April 2013, the disapproval of certain rules, which had been submitted to the 2013 Legislature, were also addressed. **Senator Davis** stated that the temporary rules have the force and effect of the law until the Legislature has the opportunity to review and consider them and to conclude the right to object to a temporary rule. What is the impact on the court's decision in the event the Committee was to reject the rules? **Mr. Smith** explained that if the Legislature rejects all or some of the proposed rules in those dockets, to the extent that the temporary rules modify existing rules, then the pre-existing rules would be reinstated and there would have to be some determination as to the validity of some of the old rules.

Mr. Smith further explained that there were certain rules that were modified by those temporary rules before the Committee today that amended the rules that were approved, or not disapproved, by the 2013 Legislature. Certain of those rules had been challenged initially. Because of the new proposed rules, and certain amendments to those rules, additional briefing was required. Those rules included the indemnification and liability provisions before the Committee. If those temporary rules that apply to the indemnification and liability provisions were not approved by the Legislature this session, then the parties would be required to resubmit those issues to the district court for determination. The district court addressed the seven day duration temporary rule that was adopted and became effective in April, 2013. If the Legislature were to disapprove the duration rule, then there would be no duration provision in the rules. It is rule specific as to what the impact would be by not approving the rules now before the Committee.

Senator Davis stated that he thinks that if 1) the Committee approves the rules so that the court can strike them down, the effect is the same as the court striking them down; or 2) the Committee rejects them, they are in effect, struck down. Either way, significant portions of these particular administrative rules will not have the force and effect of law until after an appellate court's consideration and possible reversal. Is that correct? **Mr. Smith** responded that "no" it is not correct and explained why.

Senator Davis said he thought Mr. Smith agreed with him, not disagreed. 1) If there was a provision in the administrative rules, we need to approve the rules in order to preserve the State's right to appeal at least those administrative rules that the district court has found unlawful. 2) You are encouraging the Committee to approve those rules to preserve a meaningful appeal of issues that was before the court. In the event that the Committee approves the rules that the court has found problematic, our approval of the rules are still stayed by the decision of the court. 3) If the Committee finds value in the position of the court as to some of the administrative rules before them today, and rejects them, then similarly, they are not enforceable? **Mr. Smith** concurred with points 1 and 2 but in regard to 3, stated that if the temporary rules, for example the indemnification and liability provisions, are not approved, then we would revert back to the old formulation of those rules. Those rules have not been invalidated.

Mr. Smith responded to Senator Davis' request to show the rules the court has problems with:

- Page 64, Section 201 - Public Use Duration was invalidated by the district court. Senator Davis asked if there was judicial precedent that accommodates/allows for a government agency to put a time on duration. Mr. Smith answered "no".
- Page 64 - Section 203 - State Events and Exhibits were invalidated by the court.
- Page 66, Sections 400.01 and 400.03 - Liability and Indemnification.

Senator Davis referred to the Section 400 series – the assumption was that it is not the position of the Department to create strict liability for sponsoring an event. If that is true, 400.01 and 400.03 is saying they are liable for anything that they have done instead of a third party. He assumes the Department does not have a problem with that.

Senator Davis referred to Section 201. Would a study of the Ninth Circuit decision which considered the City of Boise ordinances reveal a similar duration provision and, if so, was it part of the court's decision? **Mr. Smith** answered that there is no Ninth Circuit decision dealing with this issue involving any local or state ordinance. Regarding Section 201, the only concern is the district court's November 2013 decision.

Senator Davis recalled a U.S. Supreme Court decision that basically suggested you don't have a First Amendment right to camp on government property which could infer to grant some governmental right to put limits on duration. Is that the only precedent out there today? **Mr. Smith** agreed. The Supreme court case dealt with park service regulations for a park across from the White House. The reasoning in that decision was relied upon in the various Occupy Movement cases to indicate that states or governments can have the ability to avoid monopolization of public property by people or groups. One can derive from that analysis the reasonable occupation limits under Section 201, which the district court invalidated.

Senator Stennett provided a quick synopsis in lay terms of the discussions regarding the constitutionality of the rules. Is the Department currently enforcing the rules that the Committee is reviewing? **Ms. Luna** answered that the Department is not enforcing any of the rules that the judge called into question in November although they are in the docket. **Senator Stennett** asked if those portions have been appealed. **Ms. Luna** said they cannot appeal until there is a final judgement. **Senator Stennett** outlined the actions concerning the rules that the Department brought to the Committee: There was a preliminary injunction; they came back with rejected rules; and came back again with amended rules. There was a ruling on April 5th and one in November which deemed portions of the rules unconstitutional and those are the rules that are before the Committee. **Ms. Luna** clarified that there was never an injunction prior to the judge's ruling. The Department was asked to promulgate rules during the 2012 Session to manage the properties. Those were brought to the Legislature during the 2013 Session and the Legislature asked for revisions. The rules before the Committee today are the rules that incorporated those revisions and upon which the judge based his ruling.

Ms. Luna explained that on April 5th the rules were posted as Temporary and Proposed Rules and were published in that format in the May 2013 bulletin. Then they were published as Temporary Pending Rules in July 2013.

ADJOURNED: **Chairman McKenzie** stated that the meeting would be continued on Monday and would allow additional questions from the Committee as well as testimony from the citizens who are there to have their voices heard.

Senator Werk asked Ms. Luna for a cogent presentation of all of these issues for the meeting on Monday morning, i.e. where the rules came from including an explanation of how the Department was asked or required to promulgate rules. He requested an exact history of what has happened and why.

There being no further business, **Chairman McKenzie** adjourned the meeting at 8:55 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 20, 2014

SUBJECT	DESCRIPTION	PRESENTER
----------------	--------------------	------------------

Continued from Friday, January 17th

Docket No. 38-0406-1301	IDAPA 38 - Department of Administration 38.04.06 - Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities - page 58	Teresa Luna, Director
Docket No. 38-0408-1301	38.04.08 - Rules Governing Use of the State Capitol Exterior - page 68	

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 20, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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** convened the Senate State Affairs Committee (Committee) meeting at 8:00 a.m. with a quorum present. The business from Friday will be continued regarding review of temporary rules from the Department of Administration. **Chairman McKenzie** invited Teresa Luna, Director to continue with the presentation of the rules and answer questions from the Committee followed by public testimony.

CONTINUED FROM FRIDAY, JANUARY 20, 2014

IDAPA 38 - Department of Administration, Teresa Luna, Director

DOCKET NO. 38-0406-1301 **39.04.08 Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities - page 58**

DOCKET NO. 38-0408-1301 **38.04.08 Rules Governing Use of the State Capitol Exterior - page 68**

Ms. Luna brought to the Committee's attention a memo that was sent out on Friday in response to Senator Werk's request (Attachment A). **Senator Siddoway** thanked the Director for the memo and observed that there were two options; if we approve the rules we are going to get sued, or if we disapprove the rules we are going to get sued. **Ms. Luna** agreed. The rules before the Committee today are the rules written after last year's session that were based on input from the Legislature and include those issues with which Judge Winmill had concerns. However, those rules are not being enforced until the court process is completed. The Department has been advised by their attorneys that, in their opinion, it is necessary that those pieces that Judge Winmill declared invalid stay intact so they have a basis for appeal. **Ms. Luna** is asking that these rules be accepted as written with the understanding that they will not be enforced until there is resolution to those pieces Judge Winmill has called into question.

Senator Werk asked that if the Committee were to approve the rules with the exception of all of the parts that have been ruled unconstitutional, where does that leave the Committee. **Ms. Luna** said that the Attorney General's Office has advised them that if those sections that the judge has ruled against are rejected, it will inhibit their ability to appeal. **Senator Werk** asked that if they approved the rules and rejected those pieces that the judge has ruled unconstitutional, would it negate the State's ability to file an appeal. **Ms. Luna** said that it would not negate their ability, but the basis of the appeal would be lessened if those rules are not actually in the rules.

Senator Werk asked that if the Committee rejected those sections of the rules that have been ruled unconstitutional by the court, would there be any reason for the Department to file an appeal. **Ms. Luna** said "Yes, we believe there would be." **Senator Werk** asked if the Committee were to reject those pieces of the rules that have been ruled unconstitutional, would the Department pursue an appeal. **Ms. Luna** said "Yes, we believe we would."

Chairman McKenzie asked for further questions from the Committee then allowed for public testimony.

The following people testified in opposition to the rules, or parts thereof:

- Mary Bolognino representing The Homeless Coalition
- Dean Gunderson representing himself
- Barbara Kemp representing herself
- Monica Hopkins representing the American Civil Liberties Union of Idaho
- Ann Housrath representing herself
- Susan C. Philley representing Transform Idaho
- Gene Bray representing himself

The primary concerns of those testifying revolved around the approval of rules that had been deemed unconstitutional by the court, rules that undermined citizen's First Amendment rights, litigation cost to tax payers, the balance of authority between citizens and the Department, allowing state sponsored speech over other speech, arbitrary application of costs and fees, and the broad limits on duration.

Senator Werk asked Ms. Hopkins if she is recommending to the Committee that all of the rules be rejected or only those rules that were deemed unconstitutional by the court. **Ms. Hopkins** recommended that the Committee reject only the sections that had been deemed unconstitutional.

Chairman McKenzie stated that **Docket No. 38-0406-1301** and **Docket No. 38-0408-1301** was before the Committee and asked for the will of the Committee.

Senator Werk stated his appreciation for the Department's efforts in constructing the rules and to the citizens who attended both Committee meetings to share their concerns. It appears that the most logical way to move forward is to approve those rules that have been deemed constitutional by the court and to reject those rules that were deemed unconstitutional.

MOTION:

Senator Werk moved, seconded by **Senator Stennett**, that the Committee approve **Docket No. 38-0406-1301** and **Docket No. 38-0408-1301** with the exception of those rules that have been deemed unconstitutional by the courts which will be rejected.

Rejected Rules:

Docket No. 38-0406-1301:

- Page 64-200.03 in its entirety - State Events & Exhibits
- Page 64-201 in its entirety - Public Use Duration
- Page 66-400.01 in its entirety - User Retains Liability
- Page 67-400.03 in its entirety - Indemnification

Docket No. 38-0408-1301:

- Page 72-200.03 - in its entirety - State Events and Exhibits
- Page 72-201 in its entirety - Public Use Duration
- Page 79-400.07 - in its entirety - Fees and Costs
- Page 80-500.01 in its entirety - User Retains Liability

Chairman McKenzie and **Senator Davis** each restated the rules that were to be rejected. **Senator Davis** then stated that, in all other respects, the proposed Administrative Rules from the Department of Administration would be accepted. **Chairman McKenzie** concurred.

Senator Davis asked to have **Docket No. 38-04-8-1301** - Rule 400.07 explained. **Ms. Luna** said that the concern by the court on fees and costs was that there were no set limits. **Senator Davis** asked if the court meant to suggest that the State had a duty to subsidize speech. If the rule was to be read that the State had the right to charge for actual costs, then was Judge Winmill suggesting that the state of Idaho had an affirmative, constitutional duty to pay for speech rights? **Ms. Luna** explained that the court's concern was primarily with the word "may" instead of the word "will". The intention was to recover costs, and with the word "may" the Department could pick and choose who they would recover costs from. **Senator Davis** said that he would support the motion and outlined the reasons why.

Senator Stennett clarified Senator Davis' concern with Rule 400.07 and quoted that section from Judge Winmill's Amended Memorandum Decision and Order, Case 1:12-cv-00076-BLW Document 122, filed January 9, 2013, page 24 (Attachment B).

Senator Winder asked for information about the ability to appeal and the appeal process, as well as duration. How could competing individuals'/organizations' right to use the facilities be protected without potential conflict? **Ms. Luna** responded that the decision of whether to appeal or not is not that of the Department although they play a role in it. The decision is made in cooperation with the Attorney General's Office and executive branch. Regarding the seven day limit, the original wording was a set seven day limit. The new wording that the judge still had concern with allows the use of the facilities for seven days in any one location and then they can move to another location. The intent was not to allow one group to occupy the Jefferson steps for extended periods of time at the expense of others. It was hoped that this would address the judge's concerns.

Senator Siddoway stated his hesitancy to strike that provision but would be amenable to change the word "may" to "will" which would remove the Department's discretion about who would and wouldn't be charged for costs incurred for cleanup etc. **Senator Davis** explained that the act says that one can strike, insert, modify, or delete. However, only two of those principles have been tested and, as a result, the Legislature's practice has been to only accept or reject because of those untested principles. The Department can bring back a similar rule incorporating Senator Siddoway's suggestion.

Chairman McKenzie asked for other discussion. There being none, **Chairman McKenzie** called for a roll call vote on the motion which was to accept the dockets except for the rejection of the specific subsections that were outlined.

The motion carried by **roll call vote**. **Senators McKenzie, Davis, Winder, Lodge, Siddoway, Stennett and Werk voted aye**. **Senators Hill and Fulcher voted nay**.

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

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 22, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Minutes of January 10th	Senators Davis and Werk
Presentation	Idaho Governor's Office of Energy Resources on Electric Transmissions - Information/Education on how Idaho fits into the grid.	John Chatburn, Interim Administrator

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 22, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 and asked for a motion on the minutes.

MINUTES: **Senator Werk** moved, seconded by **Senator Stennett**, to accept the minutes of January 10th. The motion carried by **voice vote**.

PRESENTATION: **Idaho Governor's Office of Energy Resources presentation on electric transmissions and information/education on how Idaho fits into the grid.** **Chairman McKenzie** welcomed John Chatburn, Interim Administrator of the Idaho Office of Energy Resources. **Mr. Chatburn** introduced Jackie Flowers, Chair of the Idaho Strategic Energy Alliance (ISEA), to provide an update on the status of the ISEA.

Ms. Flowers, General Manager of Idaho Falls Power, explained that Governor Otter established the ISEA to develop long lasting responses to Idaho's energy challenges by developing a sound energy policy. The Energy Primer, an informational tool, is a resource for the legislative body and the Governor. It is also online. It can help the citizens of Idaho to better understand the energy landscape and the challenges faced by the industry.

The 2014 focus is on outreach and education on the state of Idaho's energy. Fact sheets on the various sources of energy such as geothermal and hydropower are being developed. There is a speakers bureau for specific topics and social media outreach to help raise the energy IQ. Reports on transmission and transportation are two big energy topics that are in progress. It is exciting to have a dialogue on transmissions within the state since it is so important to see the infrastructure that is in place, the needs going forward and how that impacts economic development.

Chairman McKenzie thanked Ms. Flowers for the contributions they have made to the State Energy Plan. The Legislature issued that plan and relied heavily on the Office of Energy Resources as well as the ISEA.

Senator Siddoway raised the question about the time frame for licensing before beginning construction. **Mr. Chatburn** asked to hold that question and that it would be answered during the presentation. He introduced Mitch Colburn and Jared Ellsworth, both from Idaho Power, who created the presentation on the transmission system that exists in Idaho.

Mr. Colburn explained that he and Jared Ellsworth are transmission planners with Idaho Power and engineers by trade. Components of electricity and the electrical system are amazing: There are over 3,000 electric utilities in the United States; millions of people consume electricity on a daily basis; an abundant supply of resources are required; and there is a large diversity across the country. This big machine that meets all of these requirements operates 99.99 percent of the time.

The North American electrical grid is made up of four parts. Idaho is part of the Western Interconnection which is one of those parts. The lines run across these grids by design and then the whole system is synchronized. The western system is the most geographically diverse and largest of all the interconnections. The 38 balancing authorities represent a collection of generation, transmission and load. Each is tasked with balancing supply with demand. They schedule out enough resource to meet the load at any given hour. If a balancing authority does not have enough supply to meet demand, transmission is available from a neighboring system since all of the systems work as one large machine operating in unison.

Three different entities govern this process and provide oversight: 1) The Federal Energy Regulatory Commission (FERC) regulates nationwide interstate transmission and has market and reliability authority over the electric system; 2) The North American Electric Reliability Corporation (NERC), appointed by FERC, develops and enforces reliability standards across the US; and 3) The Western Electric Coordinating Council (WECC) governs the western interconnection. An organization called the Peak Reliability Council, organized by WECC, monitors the western system. This big machine takes a lot of labour, oversight, coordination and planning.

The lines running across the landscape can be compared to the transportation system. Roads can be improved according to need and transmission is no different. The idea is to get power from a source to a load in the most efficient means possible. **Mr. Colburn** turned the podium over to Mr. Ellsworth to continue with the presentation.

Mr. Ellsworth explained that there are different classes of transmission measured by different levels of voltage:

- The lowest distribution of voltage generally operates at 12,500 volts (12.5 kV) serving about 2000 residential customers and the lines run along urban streets.
- The next level is 138 kV serving approximately 40,000 customers and transmits energy between substations.
- Transmission of 230 kV moves bulk voltage over long distances and carries power equivalent to 80,000 customers.
- The large lines seen crossing open country transmits 345 kV for long distances. They are used for bulk energy transmission. The power is equal to 300,000 residential customers.

There are many different power plants connected to the grid. Power goes from the power plant and is then stepped up to a substation; transmitted over long distances to a main grid substation which is generally located on the outskirts of town. The power is then stepped down to a more manageable voltage that can be brought into an urban area along road corridors where it again is stepped down to a distribution voltage. It is then delivered to the customer through residential distribution lines.

Chairman McKenzie passed the gavel to Vice Chairman Lodge.

**PASSED THE
GAVEL:**

Senator Werk asked what kind of energy loss may occur. **Mr. Ellsworth** answered that the transmission system loss is about 3 - 4 percent. Those transmission systems that encompass 138 kV up to 500 kV are expected to lose about 5 - 6 percent of the power generated in the overall system. **Senator Werk** inquired about the nature of the loss; is it lost to heat or in the ground? **Mr. Ellsworth** said it was mostly heat because the lines are generally aluminum or copper. **Senator Werk** asked if there was a difference in loss between overhead and underground lines. **Mr. Ellsworth** stated that it was about the same.

Senator Stennett asked if the distance affects the amount of loss and efficiency. **Mr. Ellsworth** responded that the longer the line and the higher the voltage results in less efficiency; not as much power can be transmitted due to the losses.

Mr. Ellsworth discussed the types of generation that is brought into southern Idaho; the transmission capacity that is purchased and coming into Idaho; and the state of available transmission capacity (ATC). Currently, the ATC is at zero throughout southern Idaho with the exception of a small amount in the southeastern part of the state. This precludes the purchase of power from outside the State. Long distance transmissions have not been built in decades.

Permitting is a major issue in building a transmission line because of the many agencies involved in the process. Each agency has a different agenda and they do not always coincide with one another. Permitting of one long distance line can take upwards of ten years. This is partially due to limited corridors in which to site a new line. This is difficult because there can be a lot of changes over a ten year period. The cost can increase and cost recovery is an issue. Usually it is necessary to obtain partners to cover the huge costs involved.

Senator Fulcher asked for an explanation of the criteria used when making a decision to run a transmission line above ground. Is going underground considered and, if so, does cost or risk affect that decision? **Mr. Ellsworth** answered that cost is the main reason; it costs about ten times as much to build underground as overhead. Maintenance is much easier and less expensive with overhead lines. The smaller residential lines go underground because they are smaller and easier to maintain.

In summary, the power system is an exceptionally large, complex machine and Idaho is only one component of this machine. We work together with our neighbors to balance and match supply and demand on an instantaneous basis 24 hours a day, 7 days a week. Idaho has reached the limit and has run out of ATC. It is time to increase the transmission capacity which is a major challenge the entire industry is facing. Reliability, FERC, NERC and WECC are taken into consideration industry-wide as Idaho works to keep the lights on and operate a safe and reliable transmission system.

Senator Winder asked two questions:

1. Is there anything the Idaho legislature could do to improve the permitting process, i.e. reducing the timeframe and costs?
2. What is the actual working relationship between FERC and WECC in the whole process?

Mr. Ellsworth answered the second question. FERC is a very big governing body so they assign NERC to provide liability standards resulting in an audit process every few years to ensure compliance with those standards. **Senator Winder** asked if the working relationship is good between FERC, NERC and WECC. Does that interfere with your ability to function effectively? **Mr. Ellsworth** responded that they have people in place to ensure we follow the standards.

Mr. Chatburn explained that the largest amount of time spent on the permitting of a transmission project is due to the need/desire to cross federal land in order to have as low an impact on private property as possible. In doing so, it is necessary to deal with the National Environmental Policy Act (NEPA), and through it, all of the other acts of Congress that have been passed in the last 40-50 years. In answer to the first question, **Mr. Chatburn** said he wasn't sure. There have been attempts to streamline some of the process but that will have to come through Congress. The Idaho Legislature could encourage Congress to streamline the process for the licensing of generation. On the transmission side, FERC, NERC and WECC set the reliability standards, but they are not actively involved in the permitting process. Permitting is through a federal land management agency if a transmission line crosses federal land. If Congress chose to streamline the NEPA process, which many organizations in the West are recommending and asking for, it would be quite beneficial.

Senator Siddoway restated that it took ten years from inception to construction. What is the timeline from the initial petition to build a transmission line, keeping in mind different sizes and areas? **Mr. Chatburn** responded that interaction with federal land agencies will be the primary driver on delays. A new project of any distance would take ten years. **Mr. Chapman** named all the steps and studies it would take to get to and through the environmental impact studies and be ready for construction.

Senator Siddoway asked if it would it be easier to change an existing line by adding a tier of wires to increase transmission rates or add another line to an existing corridor rather than adding something new. **Mr. Chatburn** answered that when a line is considered there isn't an exact corridor designated. There is a study corridor but it goes away when the permits are issued. Any additional lines in that same area would have to go back through the process. **Mr. Ellsworth** responded to the addition of tiers. Double circuiting has issues placed on the industry by FERC, NERC and WECC and plans for the loss of a corridor must be added to avoid the simultaneous loss of two corridors at the same time.

Senator Hill stated that it is alarming to have reached capacity and then encounter all of the transmission constraints and the length of time it takes to get permits to add capacity. Are there some economic consequences that the State needs to be concerned about, or are the power companies looking far enough ahead so that it will not be a concern? **Mr. Ellsworth** answered that they began the permitting process for transmission lines in 2006-2007 not knowing it would take 10 plus years. There is still internal generation capabilities for serving additional customer growth since the new power plant, Langley Gulch, was built in New Plymouth. There is just not the ability to bring additional transmission energy into the area.

Senator Hill asked about the major power outages in eastern Idaho. Do they have to do with the transmission problems? **Mr. Ellsworth** stated it is a non Idaho Power utility. **Senator Hill** asked if the mayor of Idaho Falls would yield to a question. **Rebecca Casper**, Mayor of Idaho Falls, stated she would take the question. **Senator Hill** asked if there were similar capacity problems with Idaho Falls Power or do they have capacity for future growth. **Mayor Casper** stated that they face the same kinds of problems in terms of their ability to deliver in terms of the economic impact. Idaho Falls turned away opportunities because of these issues.

Senator Werk asked if it was possible to build two power lines, one above ground and one below. **Mr. Chatburn** said that high voltage transmission is harder to permit underground across federal land than overhead because of the amount of land disturbance. An overhead line has a much smaller footprint.

Senator Stennett referred to the fires in the Wood River Valley and how they impacted the transmission lines because there is only one corridor. They are examining the option of burying the lines because they are smaller. The costs goes back to the municipalities. What kind of process is involved to make that determination? **Mr. Ellsworth** agreed that it is a sensitive topic in the Wood River Valley. His understanding is that a second line would solve the problem going to Sun Valley. However, they would like to site that line overhead in another corridor. **Senator Stennett** asked what process the power company would have to initiate to get the local residents to agree with their plan. **Mr. Ellsworth** stated that they haven't reached the threshold of requiring a second line from a FERC/WECC standpoint because of lack of demand. The power company believes it is prudent to have a second line for their customers' purposes. They have taken the position to build the second line.

Senator Stennett said the power companies have, historically, conservation incentives to mitigate the use of energy by becoming more energy efficient. What is offered now to help alleviate the pressure? **Rich Hahn**, Idaho Power, responded to the question stating that they have demand response programs that run the full spectrum of residential, commercial, industrial and irrigation entities. The power companies do an Integrated Resource Plan every 2 years and look at projections 20 years in advance to determine resources and how they plan to serve the anticipated loads. Energy efficiency and conservation through demand response programs are part of that plan.

Senator Siddoway asked if modular plants, such as small gas plants, could be used. **Mr. Chatburn** answered that, yes, it is possible. He is a member of the Idaho Power Integrated Resource Advisory Committee, and as they put together the Integrated Resource Plan, all of the various generation sources are considered to see what is most cost effective. Each of Idaho's three investor owned utilities also serve customers in other states and must file a plan with each of those states.

Vice Chairman Lodge thanked Mitch Colburn, Jared Ellsworth and John Chatburn for their work and presentation, and Mayor Casper, John Williams from Bonneville Power, and Rich Hahn and Doug Docter from Idaho Power for their participation.

ADJOURNED

There being no further business, **Vice Chairman Lodge** adjourned the meeting at 9:15 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, January 24, 2014

SUBJECT	DESCRIPTION	PRESENTER
	IDPA 15 - Office of the Governor -Military Division-Bureau of Homeland Security	
Docket No. 15-0603-1301	15.06.03 - Public Safety Communication Rules - page 16	Brig Gen Brad Richey
Docket No. 15-0604-1301	15.06.04 - Rules Governing Idaho Youth Challenge Program (New Chapter) - page 24	Brig Gen Richard Turner
Docket No. 15-1301-1301	15.13.01 - Rules of the Idaho Emergency Response Commission (Chapter Repeal) - page 29	Brig Gen Brad Richey

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 24, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 and welcomed the Committee members and presenters. **Chairman McKenzie** advised the Committee that the RS related to regulations on carrying firearms on campuses that had been scheduled on today's agenda was pulled. **Chairman McKenzie** introduced Brig Gen Brad Richy to present the rules from the Military Division of the Bureau of Homeland Security (Bureau).

IDPA 15 - OFFICE OF THE GOVERNOR-MILITARY DIVISION-BUREAU OF HOMELAND SECURITY

**DOCKET NO.
15-0603-1301**

15.06.03 - Public Safety Communication Rules - page 16

Brig Gen Brad Richy, Director, explained that **Docket No. 15-0603-1301** revises several formatting inconsistencies. There are no fee changes or changes to the rate structure. The original rule is corrected to provide that the terminology in citations will be consistent and will eliminate redundancies. **Brig Gen Richy** asked for the Committee's support.

Chairman McKenzie clarified that there were not substantive changes but only changes in formatting. **Brig Gen Richy** said that there were issues with some confusing language that was not essential to the rule so that language was struck out.

**DOCKET NO.
15-1301-1301**

15.13.01 - Rules of the Idaho Emergency Response Commission (Chapter Repeal) - page 29

Brig Gen Richy stated that there were no changes in **Docket No. 15-1301-1301** Public Safety for Communication Services rate structure. In 2009 the Emergency Response Commission was abolished and the responsibility for dealing with hazardous incidence was assigned to the Bureau. The Bureau promulgated a new chapter which is IDAPA 15.13.02 - Hazardous Substance Response Rules. At that time, the Bureau did not change the IDAPA designation previously used by the Emergency Response Commission. There is not a substantive change to the rule, it is simply given a new IDAPA number. The rule will be redesignated as 15.06.05 in the Military Division to eliminate the administrative rule references to the Emergency Response Commission. The functions that were under the Commission's authority were transferred to the Military Division.

Senator Siddoway asked if this is an expansion of authority or responsibility related to hazardous waste and the Bureau's response to emergency situations. **Brig Gen Richy** answered that there are no additional responsibilities. The new rule clarifies who has collection authority in the event of spills or other violations and removes the need for reference to any other part of the rules.

Chairman McKenzie thanked Brig Gen Richy and introduced Brig Gen Richard G. Turner, Director of Joint Staff, to present the last docket and then there will be a motion that addresses all three dockets at the same time.

**DOCKET NO.
15-0604-1301**

15.06.04 - Rules Governing The Idaho Youth Challenge Program (New Chapter) - page 24

Brig Gen Turner asked for the Committee's support for **Docket No. 15-0604-1301**. The Idaho Military Division (Division) has crafted these rules in accordance with Idaho Code § 46-805 and 32 USC §§ 508 and 509. The rules cover the Participant Selection Criteria which is set forth in the National Guard Policy. The Governing Board is appointed by the Adjutant General and serves at his pleasure, as does the Board of Admissions.

Senator Hill requested information about the funding status for this program. **Brig Gen Turner** said they get 75 percent from the National Guard Bureau, students receive ADA funding and then there is a foundation that has been accepting money from different organizations. There is no General Fund money. **Senator Hill** asked what the budget was and what funds are available for this program. **Brig Gen Turner** answered that they have a \$2,500,000 budget. They have 96 students who are in their 2 week acclimation period. The acclimation period is the first 2 weeks of the 22 week program.

Chairman McKenzie asked about the criteria for students to participate; do those reflect a national standard? **Brig Gen Turner** said that is true. They have to adhere to those standards to get federal money.

MOTION:

Senator Siddoway moved, seconded by **Senator Stennett**, to approve **Docket No. 15-0603-1301, Docket No. 15-0604-1301** and **Docket No. 15-1301-1301**. Motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 8:12 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 27, 2014

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Minutes of January 17th	Senators Winder and Siddoway
RS22623C1	Relating to Worker's Compensation to provide alternative security requirements for certain self-insured employers under the State Worker's Compensation laws.	Senator Davis
RS22539	Proposing an Amendment relating to persons subject to military duty.	Senator Jim Rice
RS22591	Relating to Wine to provide that manufacturing or bottling functions of a winery shall not be subject to suspension, revocation or non-renewal of a license.	Roger Batt, Representing the Idaho Grape and Wine Industry
RS22598C2	Relating to Firearm Regulations for college and university campuses.	Senator McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 27, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Winder

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, welcomed the Committee and announced the first order of business.

RS 22539 **A Joint Resolution proposing an amendment to the Idaho Constitution relating to persons subject to military duty** presented by Senator Rice.

Senator Rice explained that a constitution has mandatory requirements and prohibitions on actions of government. Idaho's Constitution requires that every able bodied male 18-45 years of age be enrolled in the state militia. Idaho has not been in compliance with the Constitution for a number of years. It is incumbent upon the Legislature to put an amendment before the people of the State to eliminate the requirement to enroll males between 18-45 and replace it with language that states that all able bodied persons who are residents of this state, 18 years or older shall constitute the militia. We currently have both men and women up to age 64 serving on active duty in the Idaho National Guard.

MOTION: **Senator Davis** moved, seconded by **Senator Fulcher**, to send **RS 22539** to print.

DISCUSSION: **Senator Stennett** asked what changes have been made to the bill brought before the Committee last year. **Senator Rice** responded that the changes clarified that the practices for military service is in accordance with statute rather than having a requirement that is not being met.

Senator Werk inquired if the Attorney General (AG) had been asked for an opinion or, if not, would they be asked to prepare an opinion regarding the constitutional language and the proposed language. **Senator Rice** responded that there was no plan to ask for an AG's opinion.

VOTE: The motion carried by **voice vote**

MINUTES: **Senator Siddoway** moved, seconded by **Senator Werk**, to accept the minutes of January 17th. The motion carried by **voice vote**.

RS 22623C1 **Relating to Worker's Compensation (W/C) to provide alternative security requirements for certain self-insured employers under the State Worker's Compensation laws** presented by Senator Davis.

Senator Davis said that there are two sections to this bill. The first section is brought by the Industrial Commission (Commission) and Tom Limbaugh is here to speak to that portion of the bill if necessary. **Senator Davis** explained that the second part, which is a new section, deals with self insurance for W/C benefits that are required by Idaho law. The law allows employers with historical records of

three years or more to post a cash bond with the State Treasurer; those funds act as security for payment of W/C benefits. Recent developments have brought about decisions by insurance or bond providers to avoid participating with employers like the Idaho National Lab (INL) contractors. There is no market for the INL to obtain W/C insurance. As a result, they can only be self-insured which requires three years of employer records. If that information is not available, there is not a market to buy insurance and they can't meet the statutory requirements, effectively closing the INL. Idaho needs to have the INL and what it provides. This bill gives some additional protection for those types of employers making it easier for them to participate in the self insured program. If these changes are not made, the cost to the economy could be equal to 100 jobs. **Senator Davis** asked that the Committee print **RS 22623C1**.

MOTION: **Senator Hill** moved, seconded by **Senator Werk**, to send **RS 22623C1** to print. The motion carried by **voice vote**.

RS 22591 **Relating to Wine to provide that manufacturing or bottling functions of a winery continue to remain in operation if it's license is suspended, revoked or not renewed except for certain circumstances** presented by Roger Batt representing the Idaho grape and wine industry.

Mr. Batt outlined the moving parts of an Idaho winery which is made up of manufacturing/agriculture components, the bottling process, as well as the retail and distribution activities. Only one license is issued to cover all areas of production from planting to distribution. The purpose of this legislation is to allow the operation of a winery's bottling and manufacturing/agriculture operation to continue if a license is suspended, revoked or not renewed unless the winery violates statutes pertinent to manufacturing/agriculture or bottling activities. This would allow the winery to save the product the even though it may not be distributed. Alcohol and Beverage control agreed with this revision to the Statute and supports this effort.

Idaho's grape and wine industry is a growing part of the agricultural industry supplying about 650 full and part-time jobs and approximately \$90.0 million in revenue to Idaho's economy. There is no fiscal impact and the grape and wine industry asks for the Committee's support of **RS 22591**.

Senator Stennett clarified that this bill allows the grape grower to harvest the crop and have it go through the bottling process but doesn't include the retail and distribution activities. **Mr. Batt** agreed.

MOTION: **Senator Lodge** moved, seconded by **Senator Siddoway**, to send **RS 22591** to print. The motion carried by **voice vote**.

PASSED THE GAVEL: **Chairman McKenzie** passed the gavel to Senator Lodge, de facto Vice Chairman.

RS 22598C2 **Relating to Firearm Regulations for College and University Campuses** presented by Chairman McKenzie.

Chairman McKenzie stated that **RS 22598C2** relates to the regulation of firearms on public college campuses in the state of Idaho. It is an issue related to a fundamental part of Idaho's Bill of Rights Article I, § 11, which states that the people have the right to keep and bear arms. **RS 22598C2** addresses that particular right on Idaho campuses, and is an issue that has been before this Committee in prior sessions. This bill has been crafted to protect that constitutional right, but also takes into consideration the concerns that were expressed in Committee, as well as input received over the summer. **RS 22598C2** would basically provide that

colleges and universities have the right to regulate firearms on campus but it doesn't extend to the lawful possession or transport of firearms by two categories of persons: retired military and those with an enhanced carry license. An enhanced carry license requires that a person must be over 21 years of age; must be a resident of Idaho; must have taken the enhanced carry class which has instructions on the use of firearms, the laws related to self defense and firearms in the state of Idaho; and they must have live fire training. Also, you can't be prohibited from carrying a firearm by state and/or federal law. The other provisions provide that even those categories cannot carry in a dormitory or residence hall or at an entertainment facility with a large seating capacity of 1,000 or more. The penalty has been expanded for those with an enhanced concealed carry permit so that one would lose their license. There is also an immunity provision for colleges and universities related to their setting a policy that allows or disallows the bearing of arms within this framework. Those are the general provisions. If this bill is printed, there will be some lively debate in committee.

Vice Chairman Lodge called for questions.

Senator Hill referred to page 3, line 7 of the RS, and asked for an explanation for those references. **Chairman McKenzie** stated that the sections referred to Idaho Code: § 18-3302H referred to retired law enforcement and § 18-3302K referred to those with the enhanced concealed carry permits. **Senator Hill** directed attention to line 43 referring to § 19-202A and asked for further explanation. **Chairman McKenzie** responded that law enforcement carrying out law enforcement duties and persons who are authorized by the campus to carry can do so but he would have to look at the exact language.

Senator Werk read § 19-202A and said it refers to legal jeopardy in the case of self-defense and defense of other threatened parties. **Chairman McKenzie** stated that there are five areas in this section that would apply.

Senator Werk asked how § 19-202A becomes operative unless someone is coming from the outside with a weapon. **Chairman McKenzie** said that would apply in situations where someone in a dorm room was being attacked and called for help, and someone went in to protect them; that would not be a crime.

Senator Stennett asked if someone with an enhanced concealed weapons permit is required to have any additional training after the initial course. **Chairman McKenzie** said they didn't add a different standard for those with the enhanced carry permit and the current statute does not have additional training requirements.

MOTION: **Senator Fulcher** moved, seconded by **Senator Siddoway**, to print **RS 22598C2**.

DISCUSSION: **Senator Werk** referred to the sections referenced in § 18-3302B (2) which do not refer to the enhanced concealed weapons carry permit. Is this part of the legislation talking about people with the enhanced carry permit or with the regular permit? **Chairman McKenzie** responded that the provision applies to all licensees who would be carrying under the influence of alcohol or drugs; they would lose any category of license for three years.

VOTE: **Vice Chairman Lodge** called for the will of the Committee. The motion carried by **voice vote**.

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

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 8:29 a.m.

Senator McKenzie, Chair

Twyla Melton, Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 29, 2014

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Idaho at a Glance, Household Internet Use in Rural Idaho: "Surveys of Residents in Lemhi and Idaho Counties"	Priscilla Salant, Interim Director, McClure Center for Public Policy Research, University of Idaho
	Wireless Broadband Validation Test (By Phone)	Paul Reyes, Chief Information Office-Dept. of Administration, LinkIDAHO
	How Broadband Impacts Idaho Jobs and Opportunities Idaho Broadband, Lessons Learned and What is Next	Bill Gillis, VisionTech360/LinkIDAHO
RS22440	Relating to Codifier Corrections to make Various Corrections and Technical Corrections to the Idaho Code.	Katharine Gerrity, Research and Legislation
RS22670	Relating to an Application of the State of Idaho under Article V of the U. S. Constitution for a Convention for Proposing Amendments to the U. S. Constitution	Senator McKenzie
RS22669	A Joint Memorial relating to Article V of the Constitution of the United States	Senator McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 29, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie and Senators Davis, Fulcher, Hill, Lodge, Siddoway and Stennett

ABSENT/ EXCUSED: Senators Winder and Werk

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. The first item of business was a presentation from LinkIDAHO. **Mike Field**, Executive Director for Idaho Rural Partnership and State Broadband Coordinator with LinkIDAHO, introduced the various presenters.

Mr. Field said that the LinkIDAHO project was sponsored by the National Telecommunication Information Agency (NTIA) and was implemented four years ago because there was a concern that the citizens of Idaho living in rural areas were not receiving the same opportunities as those in urban areas.

PRESENTATION: **Part I: Idaho At a Glance, Household Internet Use in Rural Idaho: "Surveys of Residents in Lemhi and Idaho Counties"** presented by Priscilla Salant, Interim Director, McClure Center for Public Policy Research, University of Idaho.

Ms. Salant stated that the University of Idaho's (UI) role in LinkIDAHO has been as a monitor and lead evaluator. They determined where there were gaps in internet and broadband service, especially in rural areas. In the future, the Committee may be faced with a decision to provide internet availability to individual households in rural Idaho where the return on investment for internet service providers (ISP) are not as high as in urban areas.

- "Telehealth" and "telemedicine" are going to be important issues.
- Household subscription rates are increasing in rural areas
- Only 62 percent of rural households have access.
- Rural population growth is lagging behind urban growth.

Ms. Salant said that she worked with the Salmon Valley Business Innovation Center (SVBIC) and the Clearwater Economic Development Association (CEDA) on this study in Idaho and Lemhi counties. The counties studied have a population of approximately 24,000 and have the highest poverty rates in the state. Nearly 80 percent have some kind of internet access, and only 1 percent of households that desire internet access cannot get it. **Ms. Salant** said that among those who do not have it, 9 percent stated the reason was lack of need and 7 percent stated that it was the high cost. Approximately a quarter of the households use the internet to work from home, 21 percent are taking online courses and 13 percent are involved in e-commerce. **Ms. Salant** said that 4 percent of households still use dialup service. The majority utilize higher-speed internet providers. Out of the 19 percent that have a home-based business, a majority of them require internet to run that business. Their goal has been set to reach 60 percent of adults having a

postsecondary education. **Ms. Salant** stated that 11 percent of households access the internet at their library. The Idaho Commission on Libraries has implemented a large project designed to increase public use of internet at local libraries. **Ms. Salant** stated that if there was to be public broadband investment, it should be in schools and medical facilities.

Part II: Wireless Broadband Validation Test presented by Paul Reyes, Chief Information Office, Department of Administration, LinkIDAHO.

Mr. Reyes explained that the Mobile Broadband Validation Project (Project) was part of a larger State broadband initiative. Since 2009, they have been working with internet providers to create maps of broadband availability so they could identify where service needs to be improved. The Project joined in partnership with Mobile Post, a Denver company, which has experience with developing applications for smartphones and testing connectivity. **Mr. Reyes** showed a map identifying the availability of broadband in the areas they have been testing. The Project utilized many volunteers from differing agencies who installed the application on their personal phones to collect data. The Department of Commerce is to be thanked for recommending the project to economic development councils. They also campaigned individuals to encourage participation in the project. **Mr. Reyes** noted that speed tests can be difficult due to anomalies in mobile broadband. The number of volunteers and individuals giving information about connectivity demonstrates how important this issue is to the citizens of Idaho. **Mr. Reyes** outlined several points about why Idaho should participate in this project:

1. Effective documentation of problems with broadband coverage in each community.
2. Efficient use of resources. Taxpayer money is not used for the project.
3. Data that is collected provides a tool for broadband planners to prioritize connectivity needs.

Mr. Reyes asked the Committee for any input or ideas to improve the scope and functionality of the project and thanked them for the opportunity to present this information.

Senator Fulcher inquired into the use of non-government satellite communications.

Mr. Reyes responded that there was not much research into satellite communications due to the increase in mobile connectivity.

Part III: How Broadband Impacts Idaho Jobs and Opportunities; Idaho Broadband, Lessons Learned and What is Next presented by Bill Gillis, Vision Tech360/LinkIDAHO

Mr. Gillis outlined the economic and social impact of the internet service provider's broadband investments in Idaho, as well as, what policy options might be important for the State to consider. The internet situation in Idaho could be viewed as being two-sided. First, there are still approximately 20,000 households and businesses that do not have any access to broadband. The other, more significant problem, is that the quality of broadband available is insufficient and, for 60 percent of the businesses surveyed in the Silver Valley, speed is an issue. **Mr Gillis** stated that the internet issue was similar to the roadway issue, where, in earlier decades, there were constant changes and upgrades necessary. He stated that internet connection is very important for education, telehealth and, especially, economics, where 80 percent of all jobs involve internet access. **Mr. Gillis** said that LinkIDAHO was part of a national project that created a large amount of data and brought stakeholders together for funding. **Mr Gillis** said they have interviewed 28 statewide leaders on how Idaho could best align its broadband efforts and there was a general agreement on three basic principles. First, there was a strong preference for private investment to support broadband. Second, sustainable solutions would come from local

initiatives. And finally, there would be a need for a limited role of state government that involved gathering data, making it available and bringing partnerships together. He stated that Idaho does very well at leveraging state purchases and that the Idaho education network reaches every school in the state. **Mr. Gillis** gave examples of state investments which can be leveraged for economic development. Mr Gillis said assisting local supporters by making data available and facilitating connections was important. Finally, he stated that LinkIDAHO has an advisory committee that represents all the different economic sectors. This has been very useful in supporting local initiatives.

Mr. Field said that they have a robust private sector that deals with technology in the State, and that they recommend the continuance of the agency to keep collaboration between government and the private sector going in order to meet the needs of the citizens of Idaho.

RS 22440 **Relating to Codifier Corrections to make various corrections and technical corrections to Idaho Code**, presented by Katharine Gerrity, Research and Legislation. There were no comments or questions.

MOTION: **Senator Davis** moved, seconded by **Senator Stennett**, to print **RS 22440**. The motion carried by **voice vote**.

PASSING THE GAVEL: Chairman McKenzie passed the gavel to Vice Chair Lodge in order to present **RS 22670** and **RS 22669**.

RS 22670 **RS 22670** was held by sponsor.

RS 22669 **A Joint Memorial relating to Article V of the Constitution of the United States (US)** presented by Chairman McKenzie.

Chairman McKenzie stated that **RS 22669** pertains to the states' ability to make applications to the US Congress calling for a convention under Article V of the US Constitution. He said that when two-thirds of the states make application on a single issue for consideration of an amendment to the Constitution, Congress is required to call a convention. He stated that legislative services looked into the number of applications that are currently pending and discovered that Congress does not track that information. That seemed like a dereliction of their constitutional duty because they would be unable to call a convention if they were unaware that the requisite number of states had applied. **Chairman McKenzie** said that the purpose of this Senate Joint Memorial was to request that records of applications from the states would be kept and that they would be made accessible to the public. **Senator Hill** inquired about time restrictions on the applications. **Chairman McKenzie** responded that, unless the application is self-limited, it remains open. **Senator Stennett** asked who was tracking the applications. **Chairman McKenzie** responded that there were some private organizations that kept track, but they could not be relied upon for complete accuracy. **Senator Davis** stated that, ten or twelve years ago, Senator Ipson ran legislation to pull all Idaho's prior requests for Article V applications.

MOTION: **Senator Davis** moved, seconded by **Senator Hill**, to print **RS 22669** and have it returned to the Committee. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lodge passed the gavel back to Chairman McKenzie.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 9:12 a.m.

Senator McKenzie, Chair

Twyla Melton, Sec. _____

David Ayotte _____

JOINT
**SENATE STATE AFFAIRS COMMITTEE
AND
HOUSE STATE AFFAIRS COMMITTEE**
8:30 A.M.
WW02
Thursday, January 30, 2014

SUBJECT	DESCRIPTION	PRESENTER
	Administrative Rules - Negotiated Rule Making Process	Dennis Stevenson, Administrative Rules Coordinator, Department of Administration Michael Chakarun, Tax Policy Manager, Idaho Tax Commission Curt Fransen, Director, Idaho Department of Environmental Quality Sharon Keifer, Deputy Director, Idaho Department of Fish and Game Tamara Prisock, Rules Unit, Idaho Department of Health and Welfare

COMMITTEE MEMBERS

Chairman McKenzie

Sen Davis

Sen Fulcher

Sen Hill

Sen Winder

Sen Lodge

Sen Siddoway

Sen Stennett

Sen Werk

COMMITTEE SECRETARY

Twyla Melton

Room: WW42

Phone: 332-1326

email: sstaf@senate.idaho.gov

MINUTES
JOINT MEETING
SENATE STATE AFFAIRS COMMITTEE
HOUSE STATE AFFAIRS COMMITTEE

DATE: Thursday, January 30, 2014

TIME: 8:30 A.M.

PLACE: WW02

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

Chairman Loertscher, Vice Chairman Batt, Representatives Anderson, Andrus, Luker, Sims, Barbieri, Holtzclaw, McMillan, Monks, Packer, Smith, Gannon, and Woodings

ABSENT/ EXCUSED: Senators Fulcher, Hill and Siddoway
Representatives Crane and Palmer

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 Loertscher** called the joint meeting of the Senate and House of Representatives State Affairs Committees to order at 8:30 a.m. Several agencies will discuss their experience with the negotiated rulemaking process.

Dennis Stevenson, Administrative Rules Coordinator, Department of Administration, opened the discussion about the negotiated rulemaking process by providing an overview of how the process works. During the years of 2012 and 2013, the Office of the Rules Coordinator conducted workshops where emphasis was placed on changes made to the provisions in the Administrative Procedures Act (APA). In addition, a memorandum was sent out to agency directors and rule writers to clarify the statutory changes. After the 2013 Session, meetings were held with individual agency staff, board members and commissioners to discuss requirements incumbent upon them once it was determined that negotiated rulemaking would be a feasible undertaking for their particular entity. During 2010, 14 out of 259 pending and pending fee rules were negotiated; during 2014, 48 out of 171 pending rules and pending fee rules went through the negotiated rulemaking process. About one-half of all rules fall into a category where there is no reason to negotiate because the nature of the change is relatively straight forward or it is by statute. **Mr. Stevenson** said the agencies provide information to the public and stakeholders by putting it on their websites.

Michael Chakarun, Tax Policy Manager, Idaho State Tax Commission (Commission), shared the Commission's experiences with the negotiated rulemaking process. **Mr. Chakarun** stated that negotiated rulemaking results in the development of better agency rules by involving the public and governmental stakeholders early in the development process so that differences could be identified and resolved before a rule moves into the formal stage and progresses to legislative review. All tax types started using the negotiated rulemaking process in 2012 although the property tax group had been using a version of that process for some time. The Commission has 13 different tax types that they administer. Most rulemaking is in the property tax, income tax and sales tax areas.

Mr. Chakarun explained that the rules committees are staffed by subject matter experts within the agency, policy people, auditors, individuals from the processing unit and those from the taxpayer services unit. The committees are chaired by experienced tax policy specialists with oversight provided by the Tax Policy Manager. The Property Tax Rules Committee, chaired by Alan Dornfest, Property Tax Policy Bureau Chief, is unique in that it includes 3 individuals that represent county government: one person from the Assessors' offices, one from the Treasurers' offices and one from the county clerks. Between 2010 and 2012, about 23 percent of the pending rules were the result of negotiated rulemaking. During the current review year, negotiated rulemaking has increased to 58 percent. The Commission does not do any fee rules. **Mr. Chakarun** outlined the process that they use from the start to the time they are ready for legislative review including how consensus is reached. This process includes input from stakeholders, the public, and other agencies. The final decision regarding whether or not to proceed with moving a draft rule to a formal rule is left to the Commissioners.

Mr. Chakarun concluded stating that the Commission embraces negotiated rulemaking; it is a good idea. **Senator Werk** inquired if it would require an increase in the Commission's budget to hire additional personnel to assist with the rulemaking to allow agency staff to get their regular work completed. **Mr. Chakarun** stated that negotiated rulemaking is an added burden involving policy specialists who also have regular duties. Those duties become backlogged during the rulemaking process.

Curt Fransen, Director, Idaho Department of Environmental Quality (DEQ), introduced Doug Conde, Section Chief, Deputy Attorney General for the DEQ and Paula Wilson, Paralegal and Rulemaking Coordinator for the DEQ. About 20 years ago, DEQ made the decision that both the rulemaking process and DEQ activities were controversial enough that they involved the Attorney General's office in the entire rulemaking process. However, they maintained control of the procedures within that process. **Mr. Fransen** provided a detailed description of the numbers and types of rules the DEQ has submitted for legislative review for the years 2010-2014, as well as the steps used in the rulemaking process. Negotiated rulemaking has been the default for DEQ although there are some instances when they do not go through the negotiated rulemaking process. Those instances are posted on an extensive and well developed website that is used to keep all interested parties advised of the status and actions for any given rule in progress at any time. Over the past 5 years, DEQ used negotiated rulemaking 21 times out of 39 opportunities. There are 3 typical times when negotiated rulemaking is not used:

1. Rule change to conform to legislative direction.
2. Housekeeping or simple change to a rule.
3. Federal regulations are incorporated into a rule by reference.

For all rulemaking, regardless of whether they are negotiated or not, DEQ makes every effort to notify the public and provide opportunities for comment consistent with and beyond the requirements of the APA. **Mr. Fransen** explained in detail the DEQ's procedures, the process for identifying interested parties and the DEQ's views on consensus. Participants in the process are generally well informed and express their support or opposition to a particular draft rule and openly discuss their concerns. Neither voting nor polling participants is allowed during the rulemaking. General agreement on the rule is determined by considering the comments that are given or submitted. There are times when DEQ must proceed when there is opposition to a rule. In most cases, that is related to a federal regulation. For the DEQ, the process helps educate the public and the DEQ, and builds consensus.

Sharon Keifer, Deputy Director, Idaho Department of Fish and Game (IDFG), stated her appreciation to the DEQ for their briefing and for a workshop they coordinated regarding negotiated rulemaking. Those efforts helped the agency and policy makers understand the process, value and benefits of negotiated rulemaking. The IDFG generates a lot of rules. From 2010 to 2014, IDFG submitted a total of 56 rule dockets about a variety of subjects. Some, such as trapping wolves, are very controversial. IDFG does not have fee rule authority. Only one rule docket during that period was actually promulgated. However, in January of this year the IDFG published 3 Notices of Intent in the Administrative Bulletin and just submitted another notice for publication in the February issue. The public comment period that just concluded had 122 responses for a relatively controversial subject. The IDFG is evaluating how to integrate existing public input processes with the negotiated rulemaking process. IDFG, using the system model that DEQ created, has a much more formalized section of their website for public comment and information to meet APA requirements. Like other agencies, IDFG develops a draft rule to provide a framework that everyone can work within. This has proven to be beneficial with the negotiated rulemaking process as well. **Ms. Keifer** explained that they identified those groups, people, agencies and others that have expertise in the pertinent areas the rule would impact. It is more difficult when a rule affects a broad range of unaffiliated sportsmen; that is more of a challenge whether it is commissioned rulemaking or negotiated rulemaking. The negotiated rulemaking process allows anyone to declare themselves an interested party. Both types of rulemaking allow the agency the discretion to filter out comments that are either off topic or not relevant to the rule. The IDFG is new at the process and will have to evaluate how best to identify consensus depending on the nature and scope of a particular rule. There was a question as to whether IDFG could choose to adopt a rule that is different than the negotiated, consensus rule. They do have that authority. The Idaho Fish and Game Commission (Commission) has the final say on the rule. However, the Commission does recognize the benefits of consensus.

Ms. Keifer noted that the IDFG has a quasi leadership committee to evaluate rule proposals and whether or not they are feasible. When a rule is a very simple change or when there is very little discretion because of law, it is not necessary to initiate negotiated rulemaking and they would provide the Commission with that guidance. Ultimately, the Commission will make the final decisions.

Tamara Prisock is the Administrator for the Division of Licensing and Certification and Manager of the Administrative Rules Unit for the Idaho Department of Health and Welfare (DHW). **Ms. Prisock** stated that the DHW has 76 chapters in the Idaho Administrative Code which support approximately 70 diverse programs involving many partners and stakeholders from public health services, child protection services, welfare and health benefits, criminal history background checks, mental health and substance abuse services, medicaid, and licensing of nursing/residential and day care facilities. All of these will be impacted by changes in the rules and are deeply involved when rules are being considered that are not driven by federal or state mandates. The DHW believes in engaging stakeholders and the public in the development of rules and policies because it results in effective administration of the programs. Both formal and informal negotiations are often conducted. Formal negotiations are those that are announced in the Idaho Administrative Bulletin which is accessible through the DHW website. Informal negotiations are those that the participation program targets as interested persons or impacted stakeholders. Those parties are directly contacted to work on a specific rule change. The DHW does not conduct rulemaking negotiations when there is no room for negotiation in a proposed rule. Most of the DHW's rules apply to federal regulations and laws, state statutes, grant guidelines or cost containment efforts. Because of the diversity of programs, services and stakeholders, the DHW doesn't require a standard set

of procedures. However, the DHW's efforts do meet the requirements of Idaho Code. The Administrative Rules Unit has developed a guide to assist programs and divisions in determining how to best engage stakeholders and the public when working on a specific rule or policy change. They have a short guide to negotiated rulemaking and a comprehensive guide for public participation.

Ms. Prisock outlined the basics of the processes they use to develop solutions and reach consensus. Decisions on the final version of the proposed rule are made by the DHW while considering stakeholder input and other factors such as program requirements and available funding. Having flexibility to use processes that work for any particular rule change or a particular group of stakeholders is important to the DHW. **Ms. Prisock** emphasized the importance of engaging the public in the development of their rules and policies. There has been a heightened awareness in the DHW about the preference to do the formal negotiated rulemaking unless there is a good reason not to do it. The 2014 rules were the result of more formal negotiated rulemaking.

ADJOURNED: **Chairman Loertscher** welcomed the Tax Commissioners who were in attendance. The efforts of the agencies is appreciated and it has been gratifying to see the progress they are making in this process. There being no further business before the Joint Committee, **Chairman Loertscher** adjourned the meeting at 10:14 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, January 31, 2014

SUBJECT	DESCRIPTION	PRESENTER
Minutes	Minutes for January 20th	Senators Fulcher and Stennett
RS22388	Relating to Veterans Homes to Provide for Nonmilitary Parents Whose Child Died While Serving in the Armed Forces	Tamara Mackenthun, Veteran Services
RS22673	Relating to State Symbols to Provide that the Idaho Giant Salamander is Designated to be the State Amphibian	Senator Ward-Engelking and Ilah Hickman
RS22675	Relating to the Legislative Council to Provide for the Council to Match Current Practice and Policy Regarding the Selection of Co-chairs of the Council.	Jeff Youtz, Director, Legislative Services Office
RS22629	Relating to Worker's Compensation to Provide that Compensation shall be Payable for Disability or Death Resulting from Certain Firefighter Occupational Diseases.	Rob Shoplock, Idaho Firefighters

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 31, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

**ABSENT/
EXCUSED:** Senator Siddoway

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 meeting to order at 8:03 a.m. with a quorum present. The minutes were held until later in the meeting.

RS 22388 **Relating to Veterans Homes to provide for nonmilitary parents whose child died while serving in the armed forces** presented by Tamara Mackenthun, Veterans Services.

Ms. Mackenthun explained that this legislation will allow Idaho's three state veterans' homes located in Boise, Pocatello and Lewiston, to admit the parents of service members who died while on active duty in the military as residents of those homes. They would pay the full amount required to live in these skilled nursing facilities and would not receive federal Veterans Administration (VA) per diem payments. They would have to be certified by a physician that they require around the clock nursing care. The change would have a very small impact since the estimated increase would only be one half of one percent. **Ms. Mackenthun** requested the support of this legislation.

Senator Werk asked if the addition to the potential population base was in opposition to any federal regulations. **Ms. Mackenthun** answered that the change would put those homes in compliance with federal law.

MOTION: **Senator Werk** moved, seconded by **Senator Stennett**, to send **RS 22388** to print. The motion carried by **voice vote**.

Chairman McKenzie welcomed Senator Ward-Engelking to introduce the next item on the agenda. **Senator Ward-Engelking** introduced Ilah Hickman to present **RS 22673**.

RS 22673 **Relating to state symbols to provide that the Idaho Giant Salamander is designated to be the state amphibian** presented by Ilah Hickman, student at Les Bois Junior High School.

Miss Hickman stated she is a seventh grade student at Les Bois Junior High and was asking the Committee's support to designate the Idaho Giant Salamander as Idaho's newest state symbol. Thirty other states have a state reptile or amphibian as a state symbol. **Miss Hickman** explained that the Idaho Giant Salamander is a unique and somewhat shy amphibian; it lives almost exclusively in Idaho (and a sliver of Montana); its skin pattern resembles a topographical map of the Bitterroot Mountain range; and the Idaho Giant Salamander likes to live under rocks near freshwater creeks, rivers and lakes which are plentiful in Idaho.

Miss Hickman provided some history about this project which started when she was in the fourth grade and was just learning about state symbols. In 2012, the

legislator from her district helped her write a bill, in 2013 she testified before the House State Affairs Committee and, although that committee voted to give the bill a full hearing, the session ended before that could happen. Today, she is back for the third time to ask for the Committee's support of this bill.

Senator Davis asked if there are other amphibians that are indigenous to Idaho. **Miss Hickman** said she believed there were, but the Idaho Giant Salamander, being more native and found almost exclusively in Idaho, would be the most unique symbol.

Senator Davis asked what other amphibians resided in Idaho. **Miss Hickman** answered that one was the spaded foot toad which lives in the western part of the United States and there are some others, but the Idaho Giant Salamander would be the most unique.

MOTION: **Senator Davis** moved, seconded by **Senator Stennett**, to send **RS 22673** to print. The motion carried by **voice vote**.

RS 22675 **Relating to the Legislative Council (Council) to provide for the Council to match current practice and policy regarding the selection of co-chairs of the Council** presented by Jeff Youtz, Director, Legislative Services Office.

Mr. Youtz stated that this is a clean up bill regarding how the co-chairmen of the Council are selected. It has been, and is the practice that the President Pro Tempore and the Speaker act as co-chairs. However, when the Council was created in 1963, the language in the code stated that the co-chairmen would be selected from the members of the Council. After Senator Davis pointed out this discrepancy, this bill was drafted to make code match current practice.

MOTION: **Senator Davis** moved, seconded by **Senator Lodge**, to send **RS 22675** to print. The motion carried by **voice vote**.

RS 22629 **Relating to workers' compensation (WC) to provide that compensation shall be payable for disability or death resulting from certain firefighter occupational diseases** presented by Rob Shoplock, Professional Firefighters of Idaho.

Mr. Shoplock explained that this proposal has been in progress over the past five years. Last year, a work group of stakeholders was assembled to create the current bill. Members of the group consisted of WC attorneys, private industry, public service and the chairman of the WC Advisory Board. The resulting draft was presented to the Industrial Commission and their recommendation was to bring it before the Legislature.

Under the proposed change, full time firefighters developing one or more of the diseases listed, will receive WC benefits unless the employer or insurer was able to show a preponderance of evidence that the firefighter was engaged in conduct or activities outside their employment requirements. In looking at the last ten years, one person would have qualified for the WC benefit. **Mr. Shoplock** ask the Committee to consider this bill.

MOTION: **Senator Winder** moved, seconded by **Senator Werk**, to send **RS 22629** to print. The motion carried by **voice vote**.

MINUTES: **Senator Stennett** moved, seconded by **Senator Fulcher**, to approve the minutes of January 20th. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:18 a.m.

Senator McKenzie, Chair

Twyla Melton, Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 03, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS22392	Relating to Raffles and Duck Races to Remove Prize Maximums for Raffles and Duck Races and to Replace with a Provision to Provide for those Maximums by Lottery Administrative Rule.	Amber French, Deputy Director of Security/Enforcement

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 03, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Fulcher, Hill, Winder, Stennett and Werk

ABSENT/ EXCUSED: Senators Lodge and Siddoway

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 with a quorum present and introduced the first order of business, **RS 22392**, presented by Amber French, Deputy Director of Security, Lottery Enforcement Division.

RS 22392 **Relating to Raffles and Duck Races to remove prize maximums for raffles and duck races and to replace them with a provision to provide for those maximums by a lottery administrative rule .**

Ms. French explained that this is the last of the Office of Performance Evaluation's (OPE) recommendations. The recommendation states that prize maximums for raffles should be removed from Idaho Code and the Idaho Lottery Commission (Commission) should be charged with setting maximum prize amounts for raffles in the Idaho Administrative Code. The amendment would align the way prizes are determined for raffles with those for bingo games. This change will make Title 67, Chapter 77 consistent in regard to prize maximums.

Senator Davis stated that his understanding of the RS is that it removes the cap for the dollar amount on prizes. **Ms. French** said the cap is currently in the administrative rule that mirrors the statute. Section 67.77.08 for bingo prizes refers back to Administrative Rule 62.102 where there are maximums on prize payouts for a bingo game; it would be the same for the raffle. **Senator Davis** stated that the practice is to set a ceiling amount and then allow for adjustment below that amount by administrative rule. This proposal seems to have no ceiling amount. Although there is legislative review and it comes by pending rule, that would only require the adoption by one of the two bodies and would have a potential of "the sky is the limit", although that may not be the intent. **Ms. French** responded that the limit was increased by statute during the last session to \$5,000 per licensure; the \$1,000 cash and the unlimited merchandise still remains. There is no intention to increase that provision. **Ms. French** agreed with Senator Davis' conclusion.

Senator Werk asked for a fuller understanding of the OPE recommendation. **Ms. French** stated that they wanted to be consistent and because bingo has that verbiage that the Commission sets the prize amount, they recommended that it should be the same for raffles.

MOTION: **Senator Werk** moved, seconded by **Senator Stennett**, to send **RS 22392** to print.

DISCUSSION: **Senator Hill** stated he would not support the motion. The Commission should not have more authority in this area. This change takes away the power of the Legislature to set limits for this agency.

Senator Davis said he can't support the motion because he can't support the bill. The Commission may want to reword their bill and put a ceiling on it and then allow for rulemaking authority below that ceiling.

**MOTION
WITHDRAWN:**

Senator Werk acknowledged that these were valid concerns and in order to give the Commission the opportunity to work on this bill, **Senator Werk** withdrew his motion.

Chairman McKenzie stated that the motion has been withdrawn with the consent of the Commission and it will be held at the call of the chair with the expectation that something will come back that is consistent with the comments made by Senator Davis.

Chairman McKenzie provided a road map for the upcoming Committee meetings. There will be three gubernatorial appointments to the Endowment Fund Investment Board and, potentially, the Article V legislation on Wednesday, February 5th. The Guns on Campus bill will be heard on Wednesday, February 12th.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:10 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 05, 2014

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointments:	Richelle Sugiyama - Reappointment to the Idaho Endowment Fund Investment Board Tom Kealey - Reappointment to the Idaho Endowment Fund Investment Board Susan Simmons - Reappointment to the Idaho Endowment Fund Investment Board	
RS22615	A Concurrent Resolution Requesting Congress to Call an Article V Convention of States to Propose an Amendment Requiring, with Certain Exceptions, a Balanced Budget	Senator Hagedorn
RS22774	Relating to an Application of the state of Idaho under Article V of the United States Constitution to Provide a Process for the Selection of Idaho Delegates to an Article V Convention.	Senator McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 05, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

**ABSENT/
EXCUSED:** None

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 8:04 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENTS: **Richelle Sugiyama**, Investment Officer, Public Employee Retirement System of Idaho (PERSI), was seeking reappointment to the Idaho Fund Investment Board (EFIB) for her third term of office. **Chairman McKenzie** welcomed Ms. Sugiyama and asked for questions from the Committee.

Senator Werk asked about the status of the investments, investment strategies and what her history has been over her past two terms. **Ms. Sugiyama** believes that the Idaho Endowment Fund's (Fund) performance highlights the stability of its investments. They have avoided the typical endowment model which includes real estate, private equity and hedge funds, and stayed with broad equity and fixed income indices that are much more transparent. They have a team of investment managers that assist the EFIB and adhered to their policies and strategies over the long term through the rough decisions and turbulent times. The EFIB works very well as a unit in assessing investment strategy and what investments are a proper fit within the portfolio. **Senator Werk** referred to a past incident where funds were taken from the fund and asked for a refresher on that incident. **Ms. Sugiyama** replied that this incident was in regard to the school bond guarantee and the fees that the Fund charges for that program. At that time the EFIB was requesting the authority to increase those fees. The request was turned down.

Senator Siddoway asked if the EFIB selects the investments or are the decisions left to the manager of the Fund. **Ms. Sugiyama** said that several years ago the organization was restructured with the help of Bob Maynard, the Chief Investment Officer (CIO) for PERSI. Since then, the investment managers are all outside contractors with oversight by the manager of investments. There is no direct flow of money or purchase of stocks or bonds at the offices.

Senator Davis asked if the talents and skills acquired with PERSI are portable to the Fund. **Ms. Sugiyama** said that it is her belief that they are portable. Beginning in July 2014, the EFIB will have oversight of the Judges' Retirement Fund which is very similar to PERSI. Working within PERSI provides the opportunity to interact and meet with CIOs from other endowments and foundations. The exchange of information helps to keep abreast of what others are doing across the nation and provides the opportunity to see how the Idaho Fund compares nationally.

Senator Siddoway asked if there are non performing assets, i.e. state lands, could those lands be liquidated and then the proceeds invested. This would give the Fund a much greater return for the beneficiaries. How would you manage such non performing assets? **Ms. Sugiyama** responded that to determine if there is a non-performing asset, a professional assessor would be needed. It would take an evaluation consultant to determine if the land was performing up to comparable assets, and opportunity costs would need to be assessed. It involves a policy decision in terms of whether or not that money should be reinvested in the State. **Ms. Sugiyama** said she could not opine on that since it was a policy call. Each situation is unique and must be reviewed by professionals with expertise in that particular area.

GUBERNATORIAL APPOINTMENTS: **Tom Kealey**, Gubernatorial Appointment to the EFIB, explained that he is a long time resident of Idaho, has been a member of the EFIB for 12 years and is a local businessman active in real estate investments along with a family owned restaurant chain. He has been involved in private equity with smaller businesses in the valley and sits on a number of boards including Blue Cross of Idaho.

Senator Davis asked how Mr. Kealey would address conflicts of interest during his service on the advisory committee. **Mr. Kealey** stated that he has no conflicts of interest in the sense that the EFIB doesn't have private equity so it is not an issue to serve in a private equity firm. There are no investments made in any of the boards or companies that he is associated with, and there doesn't seem to be a conflict with any of the volunteer activities he participates in. There are also board reviews by the other entities he serves on.

Senator Siddoway inquired if the EFIB had any influence with the Department of Lands (Department) in any capacity. **Mr. Kealey** said the EFIB serves at the request of the Department and they oversee the financial assets of the Endowment Trust along with some of the other beneficiary areas like the State Insurance Fund, the Judges' Retirement Fund and other small endowments. They recommend distributions to the Land Board, so they do have discussions and interface with them. Most recently, a new governance committee for the Department was organized to look at the overall real assets of the Department and the EFIB financial assets. He has just joined that committee as a member representing the EFIB along with Larry Johnson. This is a committee of six to look at the overall portfolio of lands.

Senator Siddoway restated his question regarding the land assets and the way they are being managed. Does the EFIB make recommendations to the Land Board about how to manage those non-performing assets? **Mr. Kealey** responded that, to date they haven't. With the new governance subcommittee, there will be experts and consultants that look at the real assets and also set a global strategy for all assets. There is a direct link to the EFIB to help with that process by providing oversight and giving recommendations to the Department. There are always changes associated with real assets such as new opportunities where none had existed in the past.

Susan Simmons, Deputy Director, Work Force Development, Department of Labor, noted that she has served on the EFIB since 2006. Prior to that, she spent ten years on the PERSI Board. The past few years on the EFIB were tough although they stayed focused, didn't "chase" the markets and didn't react.

Senator Davis pointed out that Ms. Simmons' resume shows that she was a licensed investment advisor but you have not maintained that status. **Ms. Simmons** said she had not. She made the decision not to pursue that type of business. **Senator Davis** asked if that training has been a benefit in serving on the EFIB. **Ms. Simmons** replied that it "most definitely" has been a help. Any training, as far as diversifying assets and reviewing risks, helps in serving on the EFIB.

Senator Hill asked if Ms. Simmons' had maintained her CPA license. **Ms. Simmons** responded affirmatively.

Chairman McKenzie complimented each of the members who serve on the EFIB and stated his appreciation for the consistent and strong leadership; they manage the funds well. The voting will be at the next meeting on Monday.

Senator Winder thanked all three individual for coming and for the expertise they bring to the EFIB. As a member of the EFIB he assured the Committee that all three were well qualified and they were very loyal to the service that they bring and it is an honor to serve with them.

Chairman McKenzie called on Senator Hagerdorn to present **RS 22615**.

Chairman McKenzie called attention to a letter that was distributed to the Committee members regarding a balanced budget. Every state but one, has a balanced budget requirement. The federal government does not have a balanced budget requirement. The letter stated that at 9:22 a.m. Monday morning on February 4th, the federal debt was \$16,448,110,519,733.60. The letter is enclosed as part of these minutes (See attachment A).

RS 22615

Senator Hagerdorn presented **RS 22615** calling for a concurrent resolution regarding a national balanced budget amendment. Idaho first applied for a balanced budget amendment to the U. S. Constitution in the early sixties when the debt was \$350 million. Over the last 18 months there have been a number of meetings relating to this issue. A bipartisan meeting of legislators, senators, representatives, delegates and assemblymen was held in Mt. Vernon with 37 states represented, to talk about a balanced budget amendment, whether a convention of states should be called and, if so, how that would be managed and controlled. From that meeting, a steering committee was organized. Letters have been sent to leadership in all 50 states requesting delegates be sent from every legislature in the nation to Indiana to start to formulate rules for a convention of states. If and when Congress ever has to call a convention of states, the states will have been organized and developed rules that can be adopted at the beginning of the convention. This balanced budget amendment is unique in that there are 38 states that have worked together over that past months drafting language for each state that is as identical as possible, given that the states have different ways of passing bills and resolutions. The goal has been to keep it consistent so that Congress would recognize any application as being in the same category. Under the U. S. Constitution, 34 states must file an application for Congress to call a convention of states. There are 38 states working on applications, 21 states have passed one, and, if the Idaho Legislature passes it, Idaho will be 1 of 5 that have a balanced budget request ready right now.

Senator Hill asked about the perpetuity clause on page 2, line 12. The legislature can always reverse a decision but it is better if a piece of legislation says that can be done, i.e. "until the legislatures of a least 2/3 of states" or the application is revoked by the Idaho Legislature or similar language. **Senator Hagerdorn** explained that the reason this language was used was because there are legislatures that do not meet annually. There are some states working on this that won't be a meeting for 18 months. It could be a long time before there would be 34 states that have the same language. It is acknowledged that changes can occur.

Senator Werk stated that, when he reads Article V of the Constitution, there is some confusion about calling a convention for a specific purpose. **Senator Hagerdorn** responded that the same question has been asked for over 220 years; how do you do an Article V convention of the states? The founding fathers never wrote into Article V any limitations, restrictions or powers. That was one of the

reasons the states came together to talk about how to manage a convention of states. The last one was done in 1787 which produced the current Bill of Rights. The concern is: Will this be an open forum for everyone to talk about the entire Constitution and amend the Constitution where they see applicable? Will this be a single subject convention of states? Those rules have not been written. The December meeting was to start to formulate those rules. That decision should be made by the states. The founding fathers put that Article in the Constitution for the states to hold the federal government accountable. The states have not taken the initiative to write those rules and regulations of how the convention would operate until now. The plan is to have all the states involved in formulating the rules of operation for a convention of states. **Senator Werk** commented that "Constitutionalists" want to take everything in the Constitution as the final word on what this country does. This is a different interpretation. The proposal here, along with the legislation that will be following, is specific to one item for a constitutional convention. It is necessary to review economic studies that would indicate what the short and long term impact of a balanced budget amendment at the federal level would be to the federal government, the states and the general economy. **Senator Werk** questioned the accuracy of the fiscal note.

Senator Davis explained that Article V grants Congress the authority to call a convention if 2/3 of both bodies deem it necessary or, in the alternative, Congress shall call a convention based on an application of the legislatures of states. This piece of legislation, as stated on page 1 beginning with line 33, is a formal application of the Idaho Legislature to ask for a constitutional convention. Is this being read correctly and is this the exercise? **Senator Hagerdorn** agreed that this is the exercise. There have been 3 applications previous to this where Congress has been requested to call an Article V convention for a balanced budget amendment. This one is different because the legislatures of the states are calling for a convention of the states. This is not asking for 2/3 of Congress to call it but 2/3 of the legislatures of the states to call it. **Senator Davis** shared his fear of this action and, in the past, has joined colleagues within the Senate to recall every constitutional convention request because, historically, there has been a strong lack of confidence that a limit can be put on Congress as to what they can do. In reading Article V, it says that Congress shall call a convention for proposing amendments, it is in the plural, which, in either case, shall be valid as part of this Constitution. It does not say that the states can define or limit anything. The next RS is trying to put sideboards on it. As a courtesy, this Senator would support printing if the bill would come back to this Committee. This has the possibility of allowing Congress to take up many issues. The argument is that it requires 3/4 of the states to ultimately adopt the results. But there is no limitation as to when the states can adopt it and today's generation may say "no" but tomorrow's might say "yes" and they don't have the benefit of today's wisdom.

Senator Hagerdorn said that, at the meeting in Mt. Vernon hours were spent on this exact same concern. How do you manage a runaway convention? Article V is part of our Constitution and is as important as all the other articles. They are there to guide us in how to manage and lead our country. Article V has never been exercised because no one knows how to and that has to be figured out. Those rules must be written and set in stone. **Senator Hagerdorn** could not speak for future generations. It is his prayer that we are wise enough to set procedures, policies and laws that will help guide them in the decisions they make. **Senator Davis** searched for language in Article V that says that the state legislatures get to define the rules. It seems the entity that has the right to make the call is Congress, because the states can't call it they can only apply for the call; what if Congress says they are going to make the call and here are the rules? **Senator Hagerdorn** stated that the 10th Amendment identifies clearly that it is the states' right under that amendment to the Constitution. The states have the authority and the right to

set those rules because it is not designated as authority to the federal government. Your question is the reason the states need to do that because if the states have 34 applications and Congress calls a convention and sets the rules, that must not be allowed to happen. All 50 states must get together and write those rules so they are in place. This is a convention of states, not a convention of Congress.

Senator Davis asked if the 10th Amendment was working right now. **Senator Hagerdorn** responded that it is not working as well as our forefathers intended because of all the Supreme Court decisions that have been centered around the 10th Amendment. There are no Supreme Court decisions attached to Article V.

Senator Stennett stated that, if there is a debate, the process should be made much clearer so there wouldn't be any question that the convention would be for only one subject.

MOTION: **Senator Davis** moved, seconded by **Senator Siddoway**, to send **RS 22615** to print with the understanding that it would be returned to this Committee.

Senator Werk commented that he will vote to print but this RS is problematic.

Senator Winder stated that there are grave concerns. More explanation is needed about the process, more discussion about the ramifications and defining what the goal is. This issue has been handled very well in the past and so he will support the motion but he has concerns.

Senator Fulcher stated that this is a noble intent and he has confidence in the Senators who are sponsoring this. However, there are concerns so he will not be supporting the motion.

VOTE: Motion carried by **voice vote**. **Senator Fulcher** is recorded as voting nay.

PASSED THE GAVEL: Chairman McKenzie passed the gavel to Senator Lodge, acting Vice Chairman.

Vice Chairman Lodge stated that **RS 22774** was before the Committee.

RS 22774 **Chairman McKenzie** asked the Committee's consideration to print **RS 22774**. This is a process for selecting delegates to a convention if it was called. This doesn't say that there is a belief that a convention will be called but in the event that states do call a convention, and the delegates to that convention are agents of the state legislatures, we need a process by which Idaho selects those delegates. This is clearly intended and supported by history with the types of conventions that were called during the early part of our nation's history. Regardless of whether, as a body, we are ready to move forward on an application to call for a convention or address specific amendments, we do need to have a process in place for how we would pick delegates in the event that it happens. The language has been developed after research into models from other states and it is better language. **Chairman McKenzie** asked that the RS be printed and then there could be further hearings.

MOTION: **Senator Davis** moved, seconded by **Senator Werk** to send **RS 22774** to print with the understanding that it would be returned to this Committee.

Senator Werk stated his interest about how the Legislature would select alternate delegates without the ability to create rules.

Senator Stennett asked if delegates were selected through whatever process that is implemented, are they obligated to be of like mind on an issue or in agreement? **Chairman McKenzie** compared it to the electors in the electoral college who elect a president. There is a popular vote and then the electors are expected to vote in accordance with the popular vote although they are not necessarily compelled to do so. If Idaho should call for a convention on a particular issue, the members of the delegation would have the right and ability to vote in favor of the proposed amendment on that issue by a majority vote of the seven delegates. If the convention takes up issues beyond the designated issue, then the instruction is to debate against consideration of the additional issue and vote against it.

Vice Chairman Lodge called for the Committee's wishes on **RS 22774**.

VOTE:

Motion carried by **voice vote**. **Senator Fulcher** is recorded as voting nay.

**PASSED THE
GAVEL:**

Vice Chairman Lodge passed the gavel back to Chairman McKenzie.

Chairman McKenzie announced that there would not be a meeting on Friday. He would be in attendance at his daughter's school where she would be receiving the Citizen of the Month award.

Senator Davis said that the Scouts from around the State are having an annual event today and some of those delegates have joined the Committee. Those from Eastern Idaho are led by a former member of this body, former Chairman of the Local Government and Tax Committee and this Senator's Scout Master when he became an Eagle Scout, Senator Dane Watkins.

Chairman McKenzie welcomed Senator Watkins and acknowledged another Eagle Scout, Senator Davis.

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:04 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #3
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 10, 2014

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENTS:	Vote on the Reappointment of Richelle Sugiyama, Tom Kealy, and Susan Simmons to the Endowment Investment Fund Board	
<u>S 1277</u>	Relating to the Exchange of State Land – Not a Hearing - Committee Action Only	Senator Keough
<u>RS22806</u>	A Joint Resolution Proposing to Amend Article IX, Section 10 of the Idaho Constitution Relating to the Sale of University Lands	Senator Keough
<u>RS22808</u>	A Joint Resolution Proposing to Amend Article IX, Section 8 of the Idaho Constitution Relating to the Location and Disposition of Public Lands	Senator Keough
<u>RS22825</u>	Relating to Firearms to Protect Idaho Law Enforcement Officers from being Directed through Federal Orders to Violate Their Oath of Office or Idaho Citizens' Rights under the Idaho Constitution.	Senator Hagedorn
<u>RS22717</u>	Relating to Public Works to Clarify Language Ensuring all Honorably Discharged Members of the Armed Forces are Included within Exception.	Jerry Deckard
<u>RS22707</u>	Relating to Minimum Wages to Adjust Idaho's Minimum Wage Over a Period of Time	Senator Stennett
<u>RS22777</u>	Relating to Alcoholic Beverages to Provide for Sample Tasting of Distilled Spirits at a Distillery Subject to Strict Restrictions	Senator Winder
<u>RS22599</u>	Relating to Legislative Standing to Add a New Section to Provide a Process for Intervention in Lawsuits Challenging a Law or Constitutional Provision Under Certain Conditions.	Chairman McKenzie

COMMITTEE MEMBERS

Chairman McKenzie
 Sen Davis
 Sen Fulcher
 Sen Hill
 Sen Winder

Sen Lodge
 Sen Siddoway
 Sen Stennett
 Sen Werk

COMMITTEE SECRETARY

Twyla Melton
 Room: WW42
 Phone: 332-1326
 email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 10, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

**ABSENT/
EXCUSED:** None

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. The first order of business was a vote on the three gubernatorial appointments heard at the previous meeting.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Winder** moved to send the gubernatorial appointments of Richelle Sugiyama, Tom Kealy and Susan Simmons to the Endowment Investment Fund Board to the floor with the recommendation that they be confirmed by the Senate. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

S 1277 Relating to the Exchange of State Land – **Senator Keough** requested to have this bill reassigned to the Resources and Environment Committee (Resources). The intent was to have the bill returned to Resources for further discussion.

MOTION: **Senator Davis** moved to send **S 1277** to the floor with the recommendation that it be reassigned to Resources. The motion was seconded by **Senator Stennett**.

VOTE: The motion carried by **voice vote**.

RS 22806 A Joint Resolution Proposing to Amend Article IX, § 10 of the Idaho Constitution Relating to the Sale of University Lands; presented by Senator Keough.

Senator Keough explained that the intent is to print this joint resolution for a constitutional amendment and bring it back to this Committee for a full hearing at a time the Chairman deems appropriate. By printing the RS, the bill would be out on the internet and people would have time to review it. The legislation provides that university lands cannot be sold for less than the appraised price. It also proposes that the amount of lands that can be sold to any one person or entity be set at 3,200 acres. These amendments, should they pass the Legislature and be adopted by the citizens of Idaho, would allow the State Board of Land Commissioners (Board) to dispose of university lands in a prudent and reasonable manner that meets the constitutional mandate of maximizing the returns to the endowments.

MOTION: **Senator Davis** moved to send **RS 22806** to print. The motion was seconded by **Senator Siddoway**. The motion carried by **voice vote**.

RS 22808 A Joint Resolution Proposing to Amend Article IX, Section 8 of the Idaho Constitution Relating to the Location and Disposition of Public Lands; presented by Senator Keough.

Senator Keough explained that this constitutional amendment amends Article IX, § 8, of the Idaho Constitution to allow for disposition of state endowment lands by the Board in a commercially reasonable manner consistent with the duties of care entrusted to the trustees. A report provided by an advisory committee

at the request of the Board proposed ways to manage assets to maximize the constitutional mandate on the return to the endowments, the largest of which is the public schools. **RS 22808** proposes to increase the limitation of the sale of lands to a maximum of 6,400 acres to any one individual or entity. It not only allows for public auction, but other management tools that a prudent investor as defined in Title 68, Chapter 5, would utilize. **Senator Keough** requested the RS be printed and brought back to this Committee for a full hearing at a later date.

MOTION: **Senator Davis** moved to send **RS 22808** to print. The motion was seconded by **Senator Winder**.

Senator Werk asked for the reason for the change. **Senator Keough** said that this is the result of a series of investigative reports by advisory committees and the Endowment Fund Investment Board (EFIB) for the Board with the intent to have more modern tools to manage the lands as directed by the Constitution. There is a limitation on the size of acreage in the Constitution and where there are opportunities for exchanges or sales in larger blocks of lands; those are lost opportunities that would benefit the endowments.

Senator Stennett asked why the acreage is different between the two bills. **Senator Keough** explained that there are fewer blocks of university lands compared to the public school endowment. Senator Keough submitted a map showing the distribution of those lands (See Attachment A).

VOTE: The motion carried by **voice vote**.

RS 22825

Relating to Firearms to Protect Idaho Law Enforcement Officers from being Directed through Federal Orders to Violate Their Oath of Office or Idaho Citizens' Rights under the Idaho Constitution; presented by Senator Hagedorn.

Senator Hagedorn stated that **RS 22825** is intended to protect law enforcement officers from being directed through any federal directives of any kind, after the effective date of this bill, to confiscate or restrict firearm or ammunition use in the State of Idaho. This is not to affect law enforcement officers who assist federal agents in drug or gang activities. It is only to clarify what they legally can do. A civil penalty for the first charge has been created for those supervisors and political subdivisions that might direct unlawful activity. Any further unlawful activities are covered by misdemeanor charges.

MOTION: **Senator Fulcher** moved to send **RS 22825** to print. The motion was seconded by **Senator Hill**.

Senator Werk referred to page 2, Subsection 2, lines 13-18. If there is a federal law that is in violation of Idaho's constitutional provision, does the federal law supersede the Idaho Constitution and is that the reason for this subsection.

Senator Hagedorn responded that § 11, Article I of the Constitution deals with the right to bear and own firearms and ammunition. Any legal law or rule that may come from the federal government would be enforced by federal agents but not by Idaho law enforcement officers. **Senator Werk** asked if the concern is that the federal government will pass a law that requires the confiscation of guns. **Senator Hagedorn** answered yes. **Senator Werk** asked if there was any indication that such an order was imminent in the next decade. **Senator Hagedorn** responded no.

VOTE: Motion carried by **voice vote**.

RS 22717

Relating to Public Works to Clarify Language Ensuring all Honorable Discharged Members of the Armed Forces are Included within Exception; presented by Jerry Deckard, CapitolWest Public Policy Group.

Mr. Deckard reviewed the bidding requirements for public works projects and determined that there was an omission as it relates to preference to former members of the armed forces. Air Force personnel appeared to be omitted in the existing language. This amendment clarifies the inclusion of the Air Force and all members of the Armed Forces that are honorably discharged.

MOTION: **Senator Winder** moved to print **RS 22717**. The motion was seconded by **Senator Werk**. The motion carried by **voice vote**.

RS 22707 Relating to Minimum Wages to Adjust Idaho's Minimum Wage Over a Period of Time; presented by Senator Stennett.

Senator Stennett explained that **RS 22707** gradually adjusts Idaho's minimum wage from the current federal minimum wage of \$7.25 per hour to \$8.50 per hour on July 1, 2014 and to \$9.75 per hour on July 1, 2015. The current tiered wage structure for tipped and seasonal employees remains the same. The seasonal worker age will be lowered from age 20 to age 18. Wages for tipped employees will increase from \$3.35 per hour to \$3.80 per hour on July 1, 2014 and then to \$4.25 on July 1, 2015. Wages for seasonal employees will increase from \$4.25 to \$4.70 on July 1, 2014 and then to \$5.35 per hour on July 1, 2015. The time period for payment of the seasonal minimum wage is reduced along with the training period from the current 90 days to 30 days after which the employee will be compensated at a regular minimum wage level. Beginning in 2016, the minimum wage for all employees will be adjusted annually based on the U.S. Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers. This creates no new rights and doesn't increase the burden on the Department of Labor for enforcement. The current minimum wage in Idaho is about one half the amount it takes to meet the basic needs of one adult. A growing number of people must work two full time jobs at minimum wage to meet those needs. Younger people are leaving the State for higher wages and a growing number of seniors are entering the state creating a decline in Idaho's workforce. Such trends are not sustainable for the economy. As a fiscal note, the added economic activity will result in increased revenue for the State.

Senator Werk asked who, in Idaho, are the people earning minimum wage?**Senator Stennett** said that statistically, the average age is a 35 year old adult, 88 percent are not teens, 36 per cent are 40 or older, 56 percent are women many of whom are single parents, 28 percent have children, 55 percent work full time and 40 percent are the sole source of income in their households.

MOTION: **Senator Werk** moved to print **RS 22707**. The motion was seconded by **Senator Davis**.

Senator Davis provided some history on page 1, lines 26-27 that have been struck. By coupling Idaho's minimum wage with the federal minimum wage, Idahoans have received an increase of \$2.10 in minimum wages that they otherwise would not have received during a very difficult recession. It is troubling that Idaho should be decoupled from the national federal minimum wage standard. **Senator Davis** will be supporting this motion.

VOTE: The motion carried by **voice vote**.

Chairman McKenzie stated his appreciation for those attending the Committee meeting in support of this legislation. The sign up sheets showing attendance become a part of the official record.

RS 22777 Relating to Alcoholic Beverages to Provide for Sample Tasting of Distilled Spirits at a Distillery Subject to Strict Restrictions; presented by Senator Winder.

Senator Winder advised the Committee that this is a request on behalf of some of the small distilleries, eight currently in the state of Idaho. This would allow for a

small amount of product to be tasted, less than one-half tablespoon with a maximum of 3 in any 24 hour period. Other restrictions within the bill are on age, premises, and buying product back through the state dispensary so all taxes are paid. There is one minor correction to the Statement of Purpose (SOP), the reference to tasting beer will be removed since that is not allowed.

MOTION: **Senator Werk** moved to send **RS 22777** to print. The motion was seconded by **Senator Stennett**. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman McKenzie passed the gavel to acting Vice Chairman Lodge. **Vice Chairman Lodge** called **RS 22599** before the Committee.

RS 22599 Relating to Legislative Standing to Add a New Section to Provide a Process for Intervention in Lawsuits Challenging a Law or Constitutional Provision Under Certain Conditions; presented by Chairman McKenzie.

Chairman McKenzie explained that this legislation would provide a way for the Legislature to intervene in litigation to support legislation that had been passed. For example, if there is litigation challenging the constitutionality of a bill, it would allow the Legislature to file an amicus brief in support of the bill. Others have been able to file "friend of the court" briefs but the Legislature has not had the ability to file such a brief on legislation that it passed. This will provide that mechanism. It is a significant and weighty issue that should not be taken lightly and it supports this branch of government.

Senator Werk stated a concern that the executive branch will not make a decision based on merits but will decline to defend a law that they think would not do well in court. **Chairman McKenzie** responded that the major example relates to the issue of gaming. There was interest by legislators to address legislation that was passed and the executive branch did not take a substantive position, but because of questions on standing, they didn't go forward with legislation that addressed the constitutionality issue of the legislation. That is the only known instance where the Attorney General did not take action when the Legislature would have preferred to do so.

Senator Werk asked that, at the moment, your opinion is that the Legislature doesn't have standing to intervene without this additional statutory provision. **Chairman McKenzie** indicated that is the case. An individual legislator could file an amicus brief on his own behalf but there is not a mechanism for the Legislature to participate in litigation as the Legislature. **Senator Werk** referred to Section (3) (c); the agreement that allows us to intervene is done only with majority party members. There should be a role for minority party members since this is looking at a potential extensive expenditure. **Chairman McKenzie** agreed that is a valid concern. The objective was to get both houses involved, but he understands the concern.

MOTION: **Senator Davis** moved to send **RS 22599** to print. The motion was seconded by **Senator Fulcher**. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lodge passed the gavel back to Chairman McKenzie.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:35.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
LINCOLN AUDITORIUM
Wednesday, February 12, 2014

PLEASE NOTE CHANGE OF LOCATION – NOTE CHANGE IN ENDING TIME

SUBJECT	DESCRIPTION	PRESENTER
----------------	--------------------	------------------

[S 1254](#)

Relating to Firearms Regulations Governing University and College Campuses

Senator McKenzie

Those wishing to present public testimony may sign up electronically at sstaf@senate.idaho.gov until 5:00 p.m. on February 11th. Sign up to testify will also be accepted on the date of the meeting, February 12th, **up to the start of the meeting at 8:00 a.m.** All testimony will be **concluded by 10:15 am.** Please provide a copy of your testimony to the committee secretary.

NOTE CHANGE IN ENDING TIME

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Sen Davis

Sen Fulcher

Sen Hill

Sen Winder

Sen Lodge

Sen Siddoway

Sen Stennett

Sen Werk

COMMITTEE SECRETARY

Twyla Melton

Room: WW42

Phone: 332-1326

email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 12, 2014

TIME: 8:00 A.M.

PLACE: LINCOLN AUDITORIUM

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

ABSENT/ EXCUSED: None

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 and welcomed the Committee and guests. There is one bill on the agenda and with the amount of interest from people who have signed up prior to the meeting electronically and this morning, we will try to get through as much testimony as possible by rotating from one to the other as time allows. The Senate is scheduled to go on the floor at 10:30 a.m. and it is the intent to put **S 1254** before the Committee at 10:15 a.m. Testimony, both in favor of and against will be heard during that time. After the initial presentation, testimony will be held to three minutes if possible. **Chairman McKenzie** called Dakota Moore, Idaho State Liaison, National Rifle Association, to present **S 1254**.

S 1254

Mr. Moore stated that it would be remiss to fail to point out that the Constitution of the United States of America as well as the Constitution of Idaho explicitly states the right of the people to keep and bear arms. He said that the majority decision in the Heller case outlined this as a fundamental individual right and it was incorporated into the 14th Amendment during the McDonald decision. He stated that the Idaho Constitution goes into even further detail and prohibits any public entity from abridging an individual's right to keep and bear arms. He gave a legislative history of the 2011 bill, H 222, which passed in the House by a large majority. **S 1254** is different in that, in the previous House bill, no firearm training or experience was required nor were there age restrictions. The previous bill raised the issue of universities abilities to host sporting events and the juxtaposition of alcohol and firearms. **S1274** resolves these issues by:

- 1.) Only prior law enforcement personnel or those who have undergone enhanced training may receive the permit.
- 2.) An individual must be over the age of 21 to qualify for the enhanced permit
- 3.) An individual may not carry a concealed weapon within a public entertainment venue with a seating capacity of 1000 or a public dormitory.
- 4.) Alcohol consumption is already illegal when carrying a firearm and **S 1274** enhances those penalties.

Mr. Moore confronted a few myths he believes surround **S 1274**:

Myth: It is currently illegal to possess a firearm on a university or college campus.
Fact: Under Idaho law firearms are expressly prohibited by law at courthouses, juvenile detention facilities and K-12 schools. Public colleges and universities do not have authority to enact criminal law. **Mr. Moore** stated the reasons why colleges and universities should not be regulated in the same way as courthouses and jails.

- 1.) In order to gain access to a courthouse or jail you must pass through a metal detector. Jails and courthouses have clearly defined borders with armed security.
- 2.) Typical K-12 schools only span a few acres and are not home to the demographic of people normally targeted by violent criminals.
- 3.) An adult, legally able to own a gun, may have that gun in their vehicle on school campus.
- 4.) College and university campuses span hundreds of acres, have no clearly defined borders and are home to a key demographic that is targeted for violent crimes.

Myth: Banning firearms on college and university campuses is justified because it only infringes on an individual's 2nd Amendment right in a relatively safe environment.

Fact: An absolute firearm ban on public university campuses has far reaching implications on the students and employees ability to possess a firearm, such as students commuting to or from the campus.

Myth: Bullets will be zinging around campus because 18-25 year olds are unable to control themselves or act responsibly.

Fact: A large majority of drinking by students takes place off-campus where it is already legal to possess a firearm. Six states allow concealed carry on college campuses and since the law has been enacted, no legally owned firearm has been used to commit a murder on those campuses. **Mr. Moore** then presented a graph (see attachment a).

Myth: Police will not be able to tell the difference between an armed shooter wreaking havoc on innocent students and those people who have drawn their weapon in defense.

Fact: The enhanced carry license has a training requirement and will include instruction on what to do when law enforcement arrives on the scene – drop your weapon and raise your hands. Police are thoroughly trained in high risk situations and do not just show up on a scene and immediately shoot anyone holding a gun.

Myth: There is no recorded incident in which a victim or spectator of a violent crime on campus has prevented a crime by brandishing weapon:

Fact: Recently an individual defended himself against attackers on campus and was found to be acting within his legal rights, and the college the incident occurred on subsequently changed its policy on firearms to allow them in more areas.

Mr. Moore concluded his presentation with a quote from Supreme Court Associate Justice Abe Fortas, "It could hardly be argued that either students or teachers shed their constitutional rights to freedom of speech at the school house gate."

Mr. Moore stated that if that applies to the First Amendment it should apply to the second and asked the Committee to support **S 1254** and protect law abiding citizens fundamental right to self defense and their constitutional right to keep and bear arms.

Senator Stennett inquired into informal gatherings on university lawns. **Mr. Moore** replied that the limit only applies to a structure or building.

Senator Werk asked what the NRA's goal was and about intimidation and stress levels on campus. **Mr. Moore** replied that this was the best legislation that could be provided. Many people in Idaho already possess concealed carry permits and work in jobs more stressful than going to college. **Senator Werk** asked Chairman McKenzie about indemnification; if the campus could allow students to carry weapons anywhere; and, would they be liable for action. **Chairman McKenzie** replied that the bill simply preempts their regulatory authority in a very limited regard and they would still have liability for implementing their own policy.

Senator Hill expressed gratitude to the NRA for presenting the bill.

Senator Stennet inquired into the limitation on buildings and if it was because of danger. **Mr. Moore** replied that it was not, it was to give the ability to universities to host sporting events. **Senator Stennett** asked how Mr. Moore would feel about someone who shoots the wrong person. **Mr. Moore** answered that the situation was no more likely to happen on campus then it would anywhere else where concealed carry is already allowed. The bill protects more than it would harm and it would make the college and university campuses safer.

Senator Siddoway asked about the weapons in the dormitories and how students would store their weapons if they could not bring them into the dorms. **Mr. Moore** replied that a vast majority of the students who live in the dormitories are freshman and sophomore students who do not meet the age requirement and therefore would not have weapons anyway.

Chairman McKenzie opened the forum to public testimony and explained the rules. Those opposed to the bill:

Don Burnett – Interim President of the University of Idaho (UOI), pointed out several concerns: Reduces authority for colleges to regulate firearms; Higher education areas are complex and should not be compared to other places where concealed carry is allowed; and, it would add expense to the universities.

Bob Van Arnum, concerned citizen

Mark Browning, North Idaho College.

Diane Saylor, student and staff member at Boise State University (BSU) and concealed weapons permit holder, said police were trained and other people were not.

Marilyn Whitney, Communications and Legislative Affairs Officer for the State Board of Education, stated that the Idaho State Board of Education (Board) unanimously voted to oppose the bill and that the Board felt that the bill takes away a management tool to maintain an environment conducive to learning. Colleges and universities are already safe places.

Gary Margolis, former police officer and campus safety consultant working with BSU and UOI, said that a bill that allows ease of access to firearms is likely to have no positive effect on campus safety, and armed students are more likely to create an unsafe situation due to binge drinking and higher rates of suicide. It would also complicate the jobs of campus security and administration. Storing weapons would be an issue and there are issues with conducting interviews with students who may be armed. High stress situations are hard to negotiate for untrained individuals.

Senator Werk asked if there would be a fiscal impact on the universities. **Mr. Margolis** replied that there would be. **Senator Werk** said he did not believe that the fiscal note adequately reflected the potential for cost to the universities.

Chairman McKenzie stated that, currently, the universities prohibit most law abiding citizens from carrying concealed weapons on campus but, as has been pointed out, merely having the regulation does not prevent non law abiding citizens from carrying weapons, yet they do not arm the staff currently; therefore the fiscal note is accurate.

Senator Stennet asked about mental health issues and inquired about who monitors people with enhanced permits. **Mr. Margolis** replied that mental health providers have laws that allow them to disclose what is happening with a patient if that person is a risk to themselves or others and said that mental health professionals would have a greater obligation and concern to find out mental health issues of students.

Bruce Newcomb, Director of Government Relations, BSU, stated that BSU students and faculty are against this bill. Conservative members of the Supreme Court said that the right to bear arms is not inviolate. Training is not enough and police train more than private citizens. College campuses are safe places and there are alert systems in place at BSU; the bill is a solution for a nonexistent problem. **Senator Werk** asked if there would be a need to update the security structure. **Mr. Newcomb** replied that there would be. **Senator Werk** asked if there would be a liability issue to make sure that the people carrying guns would have the enhanced concealed carry. **Mr. Newcomb** replied that the indemnity only applied to state courts and not federal courts.

Senator Stennett asked if the only choice would be to increase tuition. **Mr. Newcomb** replied that the students would likely have to subsidize costs. **Senator Stennett** asked about heated arguments on campus. **Mr. Newcomb** replied that suicide rates were higher for college students and that there were tense situations on campus which might be made worse by guns.

Bert Glandon, President of the College of Western Idaho (CWI) Board of Trustees, stated that the bill is not clear in the definition of a campus and does not consider the diversity of the college campus; CWI does not have armed security. The bill is not well written and CWI campuses are not within the traditional campus structure. **Senator Stennett** asked at what point the law is enforceable where a campus property is attached to another school. **Mr. Glandon** replied that he did not know. **Chairman McKenzie** replied that the K-12 prohibitions would still apply and private contracts with the landlord would still apply.

In favor of the bill:

Dr. Kimberly McAdams, Professor of Abnormal Psychology at BSU, had her life threatened by a former student who wanted to shoot her. Now she is worried that if the individual came to her abnormal psychology class, which has only one door and no windows, there would be no way for her to escape with her life and the only way either her or her students would have a fighting chance is if she or one of her students could be armed and able to defend themselves. She stated that people in manic states are not lucid enough to fully understand what they are doing and that they do not value life. **Dr. McAdams** stated that the presidents of the universities are not the ones in the line of fire. She asked the Committee to give her a fighting chance to save her life and the life of her students.

Senator Siddoway asked if Dr. McAdams was proficient in firearms. **Dr. McAdams** stated that she currently was not but was beginning classes and would not bring a firearm to class unless she had proper training and felt comfortable with it; she would have a firearm with a laser.

Tony Snesko, Founder of Idaho Carry and Second Amendment 2014 and former Los Angeles police officer, said that it was stated that gun groups oppose this legislation; he knows of no group that opposes this bill. He said that President Obama stated that an estimated one in five women is sexually assaulted at college which is totally unacceptable, and that he wants colleges and universities nationwide to "step up" to help protect individuals from heinous crimes, which is why **S 1254** should pass. **Mr. Snesko** stated that, as a former police officer, police officers do not prevent crime, but take reports and show up after the crime has been committed, and unarmed security officers amount to little more than babysitters.

Paul Jagosh, Idaho Fraternal Order of Police, the largest police organization in Idaho, supports the bill because a responsible, law abiding and mentally sound person is the best response to an active shooter situation. Lives will be saved if law abiding citizens have guns to protect themselves. PoliceOne is one of the foremost comprehensive and trusted sources of information for police officers. They

conducted one of the most comprehensive studies/surveys of officers who work the streets and come face to face with gun violence across the nation. Eighty-eight percent of those surveyed said that casualties would have been reduced or avoided altogether if a law abiding citizen was present with a gun during an active shooter situation, and that 91 percent of the officers surveyed support concealed carry by civilians. Also, the Fraternal Order of Police believes that this should extend to college campuses as well. **Mr. Jagosh** stated that guns were already on campuses because currently there were no preventative measures to stop anyone from bringing a weapon on campus. In addition, there were going to be delays in first responder response time. **Mr. Jagosh** asked that the Committee listen to the experts – the people who deal with gun violence on a daily basis, and who support **S 1254**.

Senator Lodge asked if Mr. Jagosh could elucidate the public safety aspect. **Mr. Jagosh** responded that there is a campus rule that guns are prohibited. A homicidal maniac would not likely be dissuaded from committing an act of mass murder because of a written rule. This bill would make campuses safer.

Senator Stennett asked how much training is required. **Mr. Jagosh** replied that there is training when they go to the academy and then every few years there is updated training.

Senator Werk asked if Mr. Jagosh and the organization would support concealed carry anywhere on campus. **Mr. Jagosh** responded that they would. **Senator Werk** said that he had seen statistics that police hit their target 30 percent of the time and asked what the accuracy of people who had enhanced concealed permits are. **Mr. Jagosh** responded that he didn't know, but that the presence of weapons in law abiding citizens hands is a significant deterrent to premeditated crime. The question of whether or not police would be able to tell who the good guys are was not an issue as they do not just rush into a situation with "guns blazing," shooting everyone who has a gun. If there was a law abiding citizen with a gun the shooting would likely be over before they got there. **Senator Werk** said that he had an issue with the statement that if people knew that people were carrying guns they would be safer but stated that colleges are already statistically safer.

Senator Lodge asked if every member of the Fraternal Order of Police was for this bill. **Mr. Jagosh** responded that it was the duty of the lodge officers to get the opinions of their lodge members.

Aaron Tribble, lawyer in Eagle who has sued universities over their prohibition of firearms, said that he had a lot of insight into laws pertaining to firearms. The bill prohibited firearms in dorms and that was in contrast to the fundamental right to keep and bear arms in the home. He said that there is no law against carrying on campus at this time and that he has done so in the past, especially in the presence of his son where he didn't want to be left without an appreciable means of self defense. **Senator Werk** said he was still struggling with the language and said that, from his perspective, with immunity comes a lack of responsibility.

Clayton Kramer, adjunct faculty at the College of Western Idaho, stated that, while violent crimes in Idaho are low – the concern is the random acts of mass murder in gun-free zones that have become a problem in the last few years. He stated that the FBI statistics on active shooter scenarios showed there were 104 events over the last 12 years and that 3 ended when victims shot the killer and another 14 incidents ended when victims "subdued the killer." He stated that the concerns that "drunken college students would turn a fist fight into a gun fight" have been mitigated by the fact that other states with similar legislation enacted have had no significant negative impact. He said concealed carry is a matter of public safety for students, faculty and staff.

Keith Pinkerton, business appraiser and adjunct faculty member at Boise State University, said that when he goes to class to teach he will be without an effective means of self defense. A low probability of violence does not mean it will not happen. He said that the plan that Boise State has in place for an active shooter says that the guarantee for safety of people on campus was to lie motionless on the floor or confront the individual. **Senator Werk** asked if Mr. Pinkerton had asked the administration if he could carry on campus to which he responded that he had not.

Chairman McKenzie stated that they were now pushing up against their hard deadline to be on the floor for the Lincoln Day presentation and he asked the Committee's consideration of the bill.

Senator Werk said he learned a lot and wanted to continue testimony.

Senator Fulcher stated that the overriding issue is that non law abiding citizens simply do not care about the restraints already in place; those restraints only impact those who are law abiding citizens. He said that they would be better off with the bill in place than the way things are currently.

MOTION: **Senator Fulcher** moved to send **S 1254** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Siddoway**.

Senator Stennett said that they have not heard from all the universities and law enforcement and they were being hasty by voting today. **Senator Werk** agreed.

SUBSTITUTE MOTION: **Senator Werk** made a substitute motion to hold the bill in Committee at the call of the Chair. The motion was seconded by **Senator Stennett**.

Senator Lodge said she wanted more information.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman McKenzie** called for a **roll call vote** on the substitute motion. **Senators McKenzie, Davis, Fulcher, Hill, Winder and Siddoway** voted **nay**. **Senators Lodge, Stennett and Werk** voted **aye**. The motion failed.

Senator Hill said that there were scenarios on both sides of the issues with positive and negative aspects. The "tie breaker" was that, when he took his oath of office, he swore to uphold the Constitution of the United States. He quoted the words of Benjamin Franklin, "they that give up essential liberty to obtain a little safety deserve neither liberty nor safety."

Senator Werk listed his concerns about the indemnity, diffuse campuses, and sororities and fraternities on campuses being "weaponized."

ROLL CALL VOTE: **Chairman McKenzie** called for a **roll call vote** on the motion to send **S 1254** to the floor with a **do pass** recommendation. **Senators McKenzie, Davis, Fulcher, Hill, Winder, Lodge and Siddoway** voted **aye**. **Senators Stennett and Werk** voted **nay**. The motion carried.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 10:37 a.m.

Senator McKenzie
Chair

Twyla Melton, Secretary

Assisted by David Ayotte

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 14, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS22857C1	A Unanimous Consent Request to Print from the Senate Transportation Committee (ITD) Related to Request for an extension that requires the Idaho Transportation Department to provide an annual report to the Senate Transportation Committee on progress with system improvements to ITD's software operations.	Senator Goedde
RS22631	Relating to the Restoring Constitutional Governance Act of Idaho to Prohibit the Detention and Disposition of Idaho Citizens who are not serving in the military.	Senator Thayn
RS22862	Relating to Powers and Duties of the State Treasurer to Establish an Advisory Board to the State Treasurer.	Senator Hill
S 1335	Relating to Alcoholic Beverages to Provide for Sample Tasting of Distilled Spirits at a Distillery Subject to Strict Restrictions.	Senator Winder
S 1332	Relating to Firearms to Protect Idaho Law Enforcement Officers from being Directed through Federal Orders to Violate their Oath of Office or Idaho Citizens' Rights Under the Idaho Constitution.	Senator Vick
Page Graduation	Farewell to Committee Page Aaron Sweet.	Chairman McKenzie
MINUTES:	Minutes for January 24th	Senators Winder and Lodge
	Minutes for January 27th	Senators Fulcher and Werk
	Minutes for January 31st	Senators Siddoway and Davis
	Minutes for February 3rd	Senators Hill and Stennett

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 14, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

**ABSENT/
EXCUSED:** None

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.

CONVENE: **Chairman McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:03 a.m. with a quorum present and welcomed Senator Goedde to the meeting to present **RS 22857C1**.

RS 22857C1 A Unanimous Consent Request to print from the Senate Transportation Committee Related to a Request for an Extension that Requires the Idaho Transportation Department (ITD) to Provide an Annual Report to the Senate Transportation Committee on the Progress with System Improvements to ITD's Software Operations.

MOTION: **Senator Davis** moved to send **RS 22857C1** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

S 1335 Relating to Alcoholic Beverages to Provide for Sample Tasting of Distilled Spirits at a Distillery Subject to Strict Restrictions; presented by Senator Winder.

Senator Winder said that there are eight distilleries currently operating in Idaho that provide an economic benefit to the State. Idaho also has wineries and micro breweries within the State that allow tasting with restrictions. Adding small distilleries would be a benefit to those small businesses. **Senator Winder** introduced Jeremy Chou, Attorney at Givens Pursley representing 8 Feathers Distillery, to explain the bill.

Mr. Chou reiterated that **S 1335** would allow tasting at a distillery with very strict restrictions. Currently, in Idaho, you can provide samples at craft breweries and wineries within certain restrictions; that is not the case with distilleries. This bill would allow distilleries that are licensed by the State of Idaho and also have a permit issued by the Federal Alcohol and Tobacco Tax Trade Bureau to serve samples of their product in very small quantities. Each sample would be one-quarter of one ounce which is equal to one-half of a tablespoon limited to 3 tastings in a 24 hour period. Some of the restrictions are:

- Distilleries cannot charge for samples.
- Distilleries will have to sell the spirits to the State and then buy them back to make sure the state tax is paid.
- Samples can only be served by individuals 21 or older even though servers in Idaho only have to be 19 or older.
- The consumer must be 21 or older to taste these products.

Idaho currently has eight distilleries, some of which have garnered national attention. Large portions of product made in Idaho are exported and in some cases internationally. The distilleries are consumers of Idaho agricultural products by use of Idaho grains. The by-products are then returned to the farmers for animal feed. Currently, about 44 states allow for spirits tasting. The lack of this opportunity is viewed by the distilleries as a fairness issue because tasting of their products should be no different than tasting at a winery or brewery except for the need for additional restrictions. The Idaho Liquor Control Board and the Idaho Liquor Dispensary reviewed the language and their comments were incorporated into the bill. Information was sent to distributors and the Idaho Licensed Beverage Association was contacted. There was no known opposition.

Chairman McKenzie questioned the Statement of Purpose (SOP) which stated that sample tastings are allowed for beer and wine but not for distilled spirits. **Chairman McKenzie** said that there is a bill concerning beer in progress so a technical correction may be needed for this SOP. **Mr. Chou** responded that it may not be necessary. Currently, sampling and tasting can occur at breweries with a brewers license under Idaho Code § 23-1003 (e). That provision says "any brewer licensed within the State of Idaho that produces fewer than 30,000 barrels of beer annually will be issued a Brewers Pub License". In addition, Idaho Code § 23-1325 (c) specifically has the wine tasting requirements for events on premises with a retail wine license.

Sandee Price, representing 8 Feathers Distillery and other distilleries within the State, spoke in favor of the bill. **Ms. Price** stated that they do feel it is a fairness issue. The sample size is such that a 110 pound woman consuming all 3 of the samples within an hour would have a blood alcohol content of .004; public safety would not be an issue. It is not about people being intoxicated, it is about making an informed decision at the distillery about the products a person or entity may wish to purchase.

MOTION: **Senator Davis** moved to send **S 1335** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 22631 Relating to Restoring the Constitutional Governance Act of Idaho to Prohibit the Detention and Disposition of Idaho Citizens who are not Serving in the Military; presented by Senator Thayn.

Senator Thayn recognized Jason Casella, People Against the National Defense Authorization Act (P.A.N.D.A.), who would be available to help answer questions. This bill addresses concerns about the indefinite detainment of citizens. The bill says that it would be the policy of the State of Idaho that the citizens of Idaho cannot be detained as enemy combatants nor can they be treated that way unless they are a part of the military or there has been a declaration of war.

MOTION: **Senator Fulcher** moved to send **RS 22631** to print. **Senator Siddoway** seconded the motion.

Senator Werk asked Senator Thayn to explain the nature of the problem that is to be solved. **Senator Thayn** deferred to Mr. Casella to answer any questions. **Mr. Casella** explained that the concerns are that §§ 1021 and 1022 of the National Defense Authorization Act (NDAA) declare the entire world a battlefield and anyone can be detained indefinitely. This resolution would restore Constitutional rights because these two sections of the NDAA "trump" the Idaho Constitution in the eyes of those who passed it. As a human rights issue, there is a fundamental right to have a trial by jury if you are suspected of a crime.

Senator Werk asked if the NDAA codifies indefinite detention. **Mr. Casella** answered that it does. The laws of war would also be applied to American citizens. **Senator Werk** asked if part of the point of the NDAA would be to allow the indefinite detention of large groups of American citizens. **Mr. Casella** said it could be large groups or it could be individuals. Judge Katherine Forrest, a New York Federal District Judge, in *Hedges v Obama*, a current Supreme Court case, ruled this to be unconstitutional. The next day the current administration asked for an emergency stay which was granted. Judge Forrest said that this has a chilling effect on First Amendment rights.

Senator Werk asked Senator Thayne if there was an Attorney General's opinion about the nature of this bill, the constitutionality of it or any difficulties that would arise from the passage of this bill. **Senator Thayne** responded that he had not.

Chairman McKenzie restated that the motion before the Committee was to print **RS 22631**.

Senator Davis stated that he agreed with Senator Werk in his strong desire to accommodate the members of the body and their requests to print. This bill appears to do nothing more than to say that federal law does not apply in Idaho. **Senator Davis** expressed some of his concerns and will do more research, but he will vote to print the bill although he doesn't see that it will be enforceable as a matter of law.

VOTE: The motion carried by **voice vote**.

RS 22862 Relating to Powers and Duties of the State Treasurer to Establish an Advisory Board to the State Treasurer; presented by Senator Hill.

Senator Hill stated that as a result of an audit of the Treasurer's Department, the auditors suggested that an advisory committee be established to help review investments by the Treasurer's office as well as provide advice and counsel. The advisory board will be patterned after the Endowment Fund Advisory Board (EFIB) with the exception that there are no legislators serving on this board. The board consists of five members from the public who serve without compensation except for \$50 per day when attending meetings; there is a minimal fiscal impact. **RS 22862** has been approved and endorsed by the Treasurer.

MOTION: **Senator Winder** moved to send **RS 22862** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Senator Werk expressed his appreciation to the Pro Tem but he will have questions about the scope of the advisory board and how they will be involved in the different types of operations.

S 1332 Relating to Firearms to Protect Idaho Law Enforcement Officers from Being Directed Through Federal Orders to Violate Their Oath of Office or Idaho Citizens' Rights Under the Constitution; presented by Senator Vick.

Senator Vick noted that **S 1332** is titled the Idaho Federal Firearm, Magazine and Register Ban Enforcement Act. It is a collaborative effort between lawmakers and law enforcement to protect Idaho citizens' rights and to protect law enforcement from unconstitutional orders related to firearms. A working group met to draft the language in this bill. It has support from law enforcement including the Fraternal Order of Police and sheriff's from around Idaho. The National Rifle Association also supports the bill. The purpose of the bill is summed up in § 2 Legislative Intent. **Senator Vick** read lines 13-17, page 1, where there is a quote that is virtually identical to § 11, Article I, of the Idaho Constitution which are the rights that this bill is attempting to uphold; the right to own firearms and ammunition. **Senator Vick** referred to lines 24-26 and read from the bill. This segment ensures that normal activities of local law enforcement may participate in are not disrupted.

Lines 27-29 makes it clear that decision makers that are committing an illegal act are the violators, not those who are following orders.

Senator Vick highlighted the language in the bill.

- It is a civil penalty for the first offense for a violation of the act.
- There is a reference to Idaho Code §§ 18-315 and 18-703 in this bill (line 6, page 2) for crimes that are currently being committed by public officers or persons; they will still be held accountable for those crimes.
- Page 2, lines 13-18 state that these are new executive orders and do not affect existing agreements.
- Subsection 3 is the enforcement clause.

Senator Werk posed the question: How can this bill declare a law unconstitutional if it hasn't been declared unconstitutional by a competent court of law? **Senator Vick** stated that he meant unconstitutional orders, not unconstitutional laws.

Senator Werk said he failed to see the difference. **Senator Vick** said that a federal order that violates the Constitution should not be upheld by local law enforcement. **Senator Werk** asked who becomes the judge of whether or not a federal order or law violates the Constitution. **Senator Vick** answered that it would be the officer that is giving the order. **Senator Werk** asked if it is normal that a law enforcement officer is given the authority to determine the constitutionality of an executive order or law. **Senator Vick** said he did not know the answer to that question. Law enforcement people will be speaking and they could possibly provide the answer.

Senator Werk said that the U. S. Constitution "trumps" the Idaho Constitution. In this instance, it would put the Idaho Constitution first. This bill is asking law enforcement to enforce what they believe is a violation of the Idaho Constitution regardless of whether or not the U. S. Constitution or Supreme Court sees that law or order as constitutional. **Senator Vick** explained that they are asking local law enforcement to follow Idaho laws and the Idaho Constitution which we are allowed to do. The Supreme Court has repeatedly held that the federal government may not commandeer state officials in service of federal policy. **Senator Werk** stated that the point to be made here seems to be the authority of the federal government to engage local state officials to enforce law. **Senator Vick** said this is about following the Idaho Constitution and Idaho laws.

Chairman McKenzie called Michael Kane to speak about **S 1332**.

Mr. Kane, representing the Idaho Sheriff's Association (Association), stated their appreciation for the opportunity to work with the sponsors of this legislation and especially to Senator Davis who listened to their concerns. The Association supports the bill.

This bill is not in any way designed to affect the laws of search and seizure. It does not create a new civil cause of action. His understanding of the concept of this bill is that if a federal order of some kind is issued and a state official determines that it violates the Idaho Constitution, that state official should not order a police officer to enforce that federal order. This bill is designed for those situations where a new federal order of some kind is issued and requires action, such as one that involves firearms or ammunition and potentially violates the Idaho Constitution. In those instances, the official may not order one of the line officers to enforce that order. If that person does so, there would be a civil penalty. After a myriad of discussions, the Association supported the bill.

Senator Stennett asked who would be responsible for paying the legal fees if this bill is contested. Is it the individual officer whether they acted appropriately or not? Is it the expense of local governments because the officer is under their jurisdiction? **Mr. Kane** answered that it is not the individual officer, and this could only happen when an individual who believes they are wilfully violating the Idaho Constitution, orders another officer to seize firearms or ammunition under a federal order. There are funds available to the officer for out-of-pocket expenses until resolution of the case. There is a statute that says if you are prosecuted and found not guilty then the officer may go back to the public entity to seek reimbursement for the costs.

Senator Werk asked if the person interpreting the constitutionality of the issue is an elected official such as a sheriff. **Mr. Kane** said that Senator Werk's reading is partially correct. It would be someone in authority who orders the confiscation of a firearm knowingly violating the Idaho Constitution. If that person is brought into court, the court becomes the referee. **Senator Werk** had further questions about how to define the person in authority. **Mr. Kane** responded by reading lines 36-38 on page 1.

Senator Stennett pointed out that holding someone to that level of responsibility is very difficult to prove. How easy is it to determine the lines of willful or not willful action? **Mr. Kane** explained that law enforcement officers have to make that call every day. The mental intent has to be proven; sometimes by actions, sometimes by words. This bill is not designed to make it easy to prove such intent even though the specific intent language is included.

Chairman McKenzie called for further questions. **Chairman McKenzie** stated his appreciation to the sponsors for the work that was done on this bill. This bill was in Committee in a prior session but was held due to his concerns with the language. A primary issue was creating a new crime. This bill creates a new civil penalty with an extremely high standard. A knowing and willful violation would be a very remote possibility. Another issue was the separation of powers which related to Senator Werk's questions. It is the courts that will ultimately make that determination. In order to prosecute under the high standard, it would almost take an Idaho court to find that a federal order violates the Idaho Constitution. There can be higher protections in a state constitution than those in the federal constitution; just not lower protection.

MOTION:

Senator Fulcher moved to send **S 1332** to the Senate floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**PAGE
GRADUATION:**

Chairman McKenzie called Aaron Sweet before the Committee to present him with a letter of recommendation from the Chairman of the Committee, a letter from the Committee members and a watch in appreciation of his service. **Chairman McKenzie** commented on Aaron's quiet efficiency and his musical and athletic talents. He asked Aaron to tell about his experience, what he has gained from it and where he will go from here.

Aaron thanked the Committee and the Legislators for welcoming him here. **Aaron** said one very important thing he has learned is that it has increased his speaking skills "a lot". The first day he was extremely nervous and would not have been able to stand up and speak as he is today. He is planning to go to the College of Western Idaho to get his core classes and then transfer to Boise State University (BSU) to become a math teacher.

Senator Fulcher asked if there were any more siblings that would be coming to the Capitol. **Aaron** answered yes, one sister, but she is a freshman so it will be a couple of years. (Note: Aaron is the third family member to serve as a page; two sisters have served, one in 2011 and one in 2013.)

MOTION: **Senator Winder** moved to accept the Minutes of January 24, 2014. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Fulcher** moved to accept the Minutes of January 27, 2014. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Siddoway** moved to accept the Mminutes of January 31, 2014. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Stennett** moved to accept the Minutes of February 3, 2014. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:55 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 17, 2014

SUBJECT	DESCRIPTION	PRESENTER
Introduction of Page	Victoria Richardson	Chairman McKenzie
RS22766	Relating to the Uniform Electronic Legal Material Act to provide for the authentication and preservation of electronic legal material.	Dale Higer
RS22881	Proposing an Amendment to the Constitution of the State of Idaho to allow the legislature to reconvene in a special session to consider bills vetoed by the Governor following the adjournment of the regular session.	Senator Vick
SJR 103	Proposing an Amendment to the Constitution of the State of Idaho relating to persons subject to military duty to make the law consistent with current practice.	Senator Rice

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: [sstaf@senate.idaho.gov](mailto:ss taf@senate.idaho.gov)

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 17, 2014
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Johnson (Fulcher), Hill, Winder, Lodge, Siddoway, Stennett and Werk
ABSENT/ EXCUSED: None

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** introduced Victoria Richardson, the Committee Page for the second half of the session, and asked her to tell the Committee about the past pages she is acquainted with, where she goes to school and why she wanted to be a page. **Miss Richardson** said she attends the Liberty Montessori School in Rigby, Idaho. She has known several students who have served as pages in the past and is aware of the changes that it made in their lives; that encouraged her to become a page. Her father is the current Mayor of Rigby and that inspired her to find out more about politics.

RS 22766 Relating to the Uniform Electronic Legal Material Act to provide for the authentication and preservation of electronic legal material presented by Dale Higer, Chairman, Uniform Law Commission.
Mr. Higer explained that **RS 22766** is related to the Legal Materials Act. States around the country are adopting statutes, rules or regulations that are in electronic format. The Idaho Department of Administration is currently retaining this type of information in an electronic format. The act will provide a method of authentication whereby a user can verify accuracy for electronic documents. It also requires that electronic documents will be preserved on a permanent basis and will be available to the public.

MOTION: **Senator Davis** moved, seconded by **Senator Werk**, to send **RS 22766** to print. The motion carried by **voice vote**.

Chairman McKenzie introduced and welcomed Senator Dan Johnson who will be sitting in for Senator Fulcher.

RS 22881 Proposes an Amendment to the Constitution of the state of Idaho to allow the Legislature to reconvene in a special session to consider bills vetoed by the Governor following the adjournment of the regular session presented by Senator Vick.
Senator Vick stated that **RS 22881** would make it possible for the Legislature to reconvene to consider bills when they have been vetoed by the Governor after the session is over. Idaho's Legislature does not have that ability. The amendment would help to maintain the balance of power between the executive branch and the legislative branch.

Senator Hill asked if this would be a unique situation; what are other states doing? **Senator Vick** responded that all but seven states either have the ability to call special sessions or have a full time Legislature. They have some method in place to override a Governor's veto.

Senator Werk stated his concern about the separation of power when a Legislature can mandate that the Governor must call a special session. Have you asked for an Attorney General's opinion regarding this issue? **Senator Vick** answered that there have been numerous discussions with the Attorney General's office regarding this legislation but that issue did not "come up". The reason for this approach was that currently, the Governor is the only one allowed by the Idaho Constitution to call a special session. To allow the Legislature the ability to call itself to a special session, it would take two constitutional amendments: One that would give the Legislature the authority to call a special session, and the second to restrict the action to overriding vetoes. By using the method in **RS 22881**, it removes the possibility of only one of the two amendments passing.

MOTION: **Senator Hill** moved, seconded by **Senator Winder**, to send **RS 22881** to print. The motion carried by **voice vote**.

SJR 103 Action on **SJR 103** was deferred to a future meeting.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:13 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 19, 2014

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointments:	Megan Ronk - Reappointment to the Idaho Commission on Human Rights Brian Scigliano - Reappointment to the Idaho Commission on Human Rights Estella O Zamora - Reappointment to the Idaho Commission on Human Rights	
RS22913	Unanimous Consent Request from Agriculture Committee	Senator Guthrie
RS22912	Unanimous Consent Request from Agriculture Committee	Senator Guthrie
SJR 103	Proposing and Amendment to the Constitution of the State of Idaho relating to persons subject to military duty to make the law consistent with current practice.	Senator Rice
S 1270	Relating to Idaho Veterans Homes to provide for nonmilitary parents whose child died while serving in the armed forces.	Tamara Mackenthun, Veteran Services
S 1272	Relating to the Legislative Council to provide for the Council to match current practice and policy regarding the selection of co-chairs.	Jeff Youtz, Director, Legislative Services Office
S 1333	Relating to Public Works to clarify language ensuring all honorable discharged members of the armed forces are included within exception.	Jerry Deckard
S 1253	Relating to Wine to Provide that manufacturing or bottling functions of a winery shall not be subject to suspension, revocation or non-renewal or a license.	Roger Batt, Representing the Idaho Grape and Wine Industry

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
 Sen Davis
 Sen Fulcher
 Sen Hill
 Sen Winder

Sen Lodge
 Sen Siddoway
 Sen Stennett
 Sen Werk

COMMITTEE SECRETARY

Twyla Melton
 Room: WW42
 Phone: 332-1326
 email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 19, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Johnson (Fulcher), Hill, Winder, Siddoway, Stennett and Werk

ABSENT/ EXCUSED: Senator Lodge

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 8:00 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENTS: The Gubernatorial Reappointments of Megan Ronk, Brian Scigliano and Estella O Zamora to the Idaho Commission on Human Rights (Commission).

Chairman McKenzie asked each appointee to describe their experience on the Commission since their last appointments.

Ms. Ronk discussed the changes in the Commission over the last three years. The Commission was shifted to the Department of Labor (Department) which has been a good change. The Department has provided support and resources which has allowed the Commission to do their work more effectively. There has been a steady number of cases come through the Commission. Good solutions through mediation have been found for discrimination cases. The Commission staff does a good job of directing people through the process. The Commission is diverse with a wide variety of background and perspectives but the group can come together and most often finds consensus in their decisions.

Senator Werk asked for a characterization of the issues coming before the Commission; have there been any changes? **Ms. Ronk** replied that it has been consistent. The majority of the cases are related to unfair discharge, harassment or intimidation and those have remained steady. **Senator Werk** requested the specific nature of the unfair discharge complaints. **Ms. Ronk** stated that the greatest percent of the cases she has reviewed have been harassment related to a conflict with a supervisor. There have been a steady number of sexual harassment, race and religious issues. There are not many cases for failure to accommodate disabilities.

Senator Hill inquired about the functions of the Commission in the process of investigation and mediation or other options. **Ms. Ronk** applauded the staff of the Commission because they do most of the leg work and gave a brief synopsis of the process. Based on the facts reported to the Commission, the Commission makes the final decision. The staff include skilled mediators and there have been successful mediation cases. **Senator Hill** asked at what point information becomes public record. **Ms. Ronk** answered that their general meetings are held in a public forum, but specific cases are reviewed in a closed executive session. She doesn't believe they become public record.

Chairman McKenzie thanked Ms. Ronk and welcomed Mr. Scigliano.

Mr. Scigiliano stated that the cases are in the same categories described by Ms. Ronk. There seemed to be a trend toward age discrimination for a short period but the nature of the cases are similar. In his experience, the number one source of conflict seems to be related to a physical or mental disability.

Senator Hill asked how many cases are handled in a typical year and asked him to define a case. **Mr. Scigiliano** stated that it is considered a case when an investigator compiles a full report that is sent to the Commission who then makes a decision of probable cause or no probable cause. There seems to be approximately 450 - 570 over the last seven years. **Senator Hill** asked about the size of the staff that worked on these cases. **Mr. Scigiliano** said there are ten full time staff members and there are seven individuals on the Commission.

Chairman McKenzie thanked Mr. Scigiliano and introduced Ms. Zamora.

Ms. Zamora agreed with the statements made by Ms. Ronk and Mr. Scigiliano. The merge with the Department has been a tremendous experience in that they now have the resources needed.

Senator Winder referred to the number of cases in the State and asked about the types of education or training the State is doing to reduce those numbers. Ms. Zamora said they needed to have more education for the community, the work force and businesses. There isn't the staff at the Commission to do that; they are capable, but the work load is too heavy.

Senator Werk asked if some of the complaints were about sexual orientation or are they the classic sexual harassment cases. **Ms. Zamora** responded that they have had male on male cases.

Chairman McKenzie echoed Senator Winder's statements about appreciating Ms. Zamora's service on the Commission and all the years of service in Canyon County. The appointments will be voted on at the next meeting.

RS 22913

A Unanimous Consent Request from the Agricultural Committee Rejecting Rules Related to Noxious Weed Free Gravel and Rock Products; presented by Senator Guthrie.

RS 22912

A Unanimous Consent Request from the Agricultural Committee Rejecting a Rule Relating to the State of Idaho Board of Veterinary Medicine; presented by Senator Guthrie.

MOTION:

Senator Davis moved to send **RS 22913** and **RS 22912** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

SJR 103

Proposing an Amendment to the Constitution of the State of Idaho Relating to Persons Subject to Military Duty to Make the Law Consistent with Current Practice; presented by Senator Rice.

Senator Rice explained that **SJR 103** is in the nature of a clean up. The current language in Article XIV § 1 requires the enrollment of every able bodied male ages 18-45 in the State militia; that is not the current practice. **Senator Rice** provided the history of militia and how that act has changed since Idaho's original act was adopted using language that mirrors the first militia act passed in 1792. There are three types of militia:

1. The organized militia.
2. The unorganized militia.
3. The unorganized militia used for Federal Constitutional purposes.

The Federal Court of the United States (Court) has held that the term militia means "all males physically capable of acting in concert for the common defense." The Court also refers to it as "the body of all citizens capable of military service." **Senator Rice** explained other changes that have happened over time, i.e., gender and race. The proposed amendment aligns Idaho's

Constitution with the definition of the unorganized militia without gender discrimination. In the Heller decision, the U.S. Supreme Court stated that "the militia is assumed by Article 1, already to be in existence ... but to organize the militia connoting a body already in existence." This bill aligns the general definition of the unorganized militia with existing Supreme Court decisions and the historical definition of militia.

Senator Werk noted that it is a laudable goal to clean up the language in the Constitution and remove any gender language. However, there may be Second Amendment considerations here that are not being stated. **Senator Rice** replied that for Second Amendment purposes, this only makes it clear that Idaho has not changed the definition of militia from what it was originally other than eliminating gender discrimination. **Senator Werk** asked why would we want to make any person over 18 part of the militia. **Senator Rice** said that changes can be made more readily in statute than in the Constitution. Constitution changes would hinder the organization of the militia in the case of an emergency. **Senator Werk** shared an Attorney General's opinion indicating this could potentially result in a loss of state sovereignty if everyone is in the militia and Congress decides to call up the militia to enforce law within the State of Idaho. **Senator Rice** pointed out the problem with that opinion. It uses the premise that the militia is narrower than what Article I of the U.S. Constitution and the U.S. Supreme Court says it is. So the rest of the conclusions are far from accurate.

Senator Hill asked for the motivation behind **SJR 103**; what is the necessity of the bill? **Senator Rice** outlined the problem; elected bodies deviate from constitutional authority. Laws are made that purport to change what constitutions say they are required to do. Elected bodies do not have that authority. Constitutions do mean something, must mean something or the rule of law is lost. There are situations that ignore constitutional provisions. Elected officials are not the final say on law. The people, through their constitution, are the final arbiters. **Senator Hill** agrees with the principles. Has the Legislature made laws contrary to what the State Constitution now says, so it now needs to be changed to comply with the statutes? Does everyone over 18 have to enroll? **Senator Rice** said the requirement to enroll was removed which allows Idaho to be in compliance. It moves actual military service into statute to provide for a voluntary National Guard which is, by statute, the active militia.

Senator Winder requested an explanation of "all able bodied persons."
Senator Rice stated that it means capable of bearing arms which is broader than might be expected.

Senator Werk asked about a law that excuses the need for enrollment in the militia; is that law specific or general? This bill expands the members of the militia from men 18-45 to men and women 18 and up. **Senator Rice** explained what statute requires now. There are a number of inconsistencies. This bill does not change what the militia is, it changes the enrollment requirement and who will be required to serve in the active duty militia at any given time. **Senator Werk** returned to the Attorney General's opinion and how it could be incongruous with Article 1, § 8 of the U.S. Constitution for the definition of the militia. **Senator Rice** explained that it starts out with the assumption that the State has the ability to limit the age range that the U.S. Government could require to be organized. That assumption is incorrect as the U.S. Supreme Court held in Heller and numerous other decisions.

Senator Davis said it might be wise to speak with the Attorney General to hit the target and address the concerns that have arisen. The Legislative Council has the responsibility to write the arguments for and against, and the against argument would include the concerns of the Attorney General's office. Before the bill currently before the Committee is voted on, maybe Senator Rice should address those concerns with the Attorney General. This is not a motion, it is a friendly approach. **Senator Rice** responded that he did approach the writer of the opinion who declined to address the matter. However, he would be willing to discuss it further with the Attorney General's office. **Senator Davis** offered the assistance of the Pro Tem to work with the Attorney General's office. **Senator Rice** agreed.

Chairman McKenzie accepted the request of the sponsor to delay any action on **SJR 103** subject to the call of the Chair.

S 1270

Relating to Idaho Veterans Homes to Provide for Nonmilitary Parents Whose Child Died While Serving in the Armed Forces; presented by Tamara Mackenthun, Deputy Administrator, Idaho Division of Veteran Services.

Ms. Mackenthun explained that **S 1270** will allow the three Idaho State Veterans Homes in Boise, Pocatello and Lewiston to admit as residents, the parents of service members who died while in active service in the military. The veterans homes are skilled nursing facilities and the parents, like all residents, will have to be certified by a physician as requiring around the clock nursing care. Spouses and parents are limited by federal statute, to 25 percent of the population of the veterans homes. If the home is 95 percent occupied, they will not accept spouses for admission and that would apply to parents as well. Parents will pay the full amount to live in the homes; they will not receive federal per diem payments. This will have a very small impact on the homes. The additional source would be beneficial to the Lewiston and Pocatello homes which are currently operating below capacity. **Ms. Mackenthun** asked for support for the legislation.

Senator Stennett asked about the admission process. **Ms. Mackenthun** responded that the requirement is that an individual must be a veteran or spouse of a veteran and that the individual requires long-term nursing care. The admission process is rigorous, and one must meet all the requirements to be eligible. **Senator Stennett** asked what would happen if a non veteran was accepted putting the home at capacity then a veteran applied for admission. **Ms. Mackenthun** said they would not "kick someone out." The populations are fluid because the residents are fragile and waiting lists do not exist for a long period of time. **Senator Stennett** asked if changing this will improve the resources the home receives. **Ms. Mackenthun** responded that it would neither help nor hurt.

Senator Winder referred to the print hearing where it was stated this would make our Idaho laws in compliance with federal law; is that correct? **Ms. Mackenthun** said it does put Idaho in compliance with federal regulations.

MOTION:

Senator Stennett moved to send **S 1270** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

S 1272

Relating to the Legislative Council to Provide for the Council to Match Current Practice and Policy Regarding the Selection of co-chairs; presented by Jeff Youtz, Director, Legislative Services Office.

Mr. Youtz presented **S 1272** on behalf of the Legislative Council (Council). The bill deals with how co-chairmen of the Council are selected. The original statute stated that there would be a chairman and vice chairman selected by the members of the council. Current practice is that the Pro Tem and Speaker serve in the capacity of co-chairmen. This bill aligns the statute with current practice on how the co-chairs are selected.

MOTION: **Senator Stennett** moved to send **S 1272** to the floor with a **do pass** recommendation. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

S 1333 Relating to Public Works to Clarify Language Ensuring all Honorable Discharged Members of the Armed Forces are Included Within Exception; presented by Jerry Deckard with Capital West Public Policy Group.

Mr. Deckard introduced Colonel Bruce Wong, United States Air Force Retired and Director, Ada County Highway District, to speak to **S 1333**.

Colonel Wong asked for support of **S 1333** and provided some background about his service and how he arrived in Idaho. A previous reiteration of this bill left the air force out of the definition for veterans and this bill simply adds them in.

Senator Siddoway asked if there are other military groups missing and what happens when the National Guard is activated and serving in foreign countries. **Colonel Wong** answered that they are included.

MOTION: **Senator Werk** moved to send **S 1333** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

S 1253 Relating to Wine to Provide that Manufacturing or Bottling Functions of a Winery shall not be Subject to Suspension, Revocation or Non-renewal of a License; presented by Roger Batt, representing the Idaho Grape Growers and Wine Producers.

Mr. Batt explained that a winery has multiple functions that include: the manufacturing involving growing, harvest and storage of the juice; the bottling segment; and, the retail and distribution which includes warehousing and outlets including tasting rooms. All of these functions are covered under one license. The objective of this bill is to allow the continuation of the manufacturing and bottling operations if that winery license is suspended, revoked or not renewed unless the cause was pertinent to those two segments. If either of these operations were to be shut down, even for a short period of time, it could have a serious negative impact on that business. Members of the industry agree that if a winery license is not renewed, that winery should not be able to distribute or sell those products. Lieutenant Russ Wheatley, Alcohol Beverage Control, was not opposed to this language. **Mr. Batt** discussed the economics of the wine industry within the State where it provides 650 full or part-time jobs and about \$90 million in revenue. There is no fiscal impact from this legislation. **Mr. Batt** asked for the Committee's support of the bill.

Senator Davis asked how other states with a strong wine industry deal with this issue. **Mr. Batt** has researched about 17 different codes with respect to winery licenses. He could not find any exemptions like this in any of the other statutes. **Senator Davis** said that if there was this type of violation, that winery could lose its license. **Mr. Batt** concurred.

Senator Siddoway asked what would be the resolution to having an inventory but unable to sell the product. **Mr. Batt** explained that when a license is not renewed it is for a period of time until issues are resolved and the license is renewed. This would allow those operations to continue for that particular growing season for future storage and sale when the license is renewed. **Senator Siddoway** asked for examples of why a license would be lost. **Mr. Batt** listed a tax violation, license not renewed on time or the biggest violation which would be if someone inadvertently sold wine to a minor in a tasting room.

Senator Stennett asked if this helps to keep production going until the licensure is rectified so those production portions of the business are not a total loss to the winery. **Mr. Batt** agreed that was the case. This legislation protects jobs and particularly the grape growers the wineries contract with. **Senator Stennett** asked what the course of action would be if the winery was unable to get the license renewed. What would happen to the inventory that had been produced? **Mr. Batt** said they would have to work that out with Alcohol and Beverage Control.

MOTION:

Senator Stennett moved to send **S 1253** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

Senator Davis requested that Alcohol and Beverage Control provide written direction about any concerns they may have before the bill goes on the floor. **Senator Davis** stated his reluctance to go forward without that since Idaho is the "point of the spear" on this issue.

Senator Werk said he is supportive but there is a question because specific instances are not being defined as to when activities should not continue such as an egregious violation. This is a broad exemption. However, he will not oppose the motion.

VOTE:

The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:15 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 21, 2014

SUBJECT	DESCRIPTION	PRESENTER
UNANIMOUS CONSENT REQUESTS COMMERCE/ HR COMMITTEE:	RS 22905 - Relating to exemptions from coverage from the Worker's Compensation Law in reference to sole proprietorships.	Senator Johnson
	RS 22891 - A Concurrent Resolution rejecting a certain rule docket of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors.	Senator Patrick
UNANIMOUS CONSENT REQUEST TRANSPORTATION COMMITTEE:	RS 22929 - Regarding legislation creating a process whereby the Idaho Transportation Board may provide maintenance of a highway not being adequately maintained by a county or highway district.	Senator Brackett
VOTE ON GUBERNATORIAL APPOINTMENTS:	Vote on Gubernatorial appointments to the Human Rights Commission: Megan Ronk, Brian Scigliano and Estella O Zamora	
GUBERNATORIAL APPOINTMENTS:	Gubernatorial appointment of Susan Kerrick to the Idaho Lottery Commission	Susan Kerrick
	Gubernatorial appointment of Timothy N. Anderson to the State Building Authority	Timothy N. Anderson
	Gubernatorial reappointment of John Ewing to the State Building Authority	John Ewing
	Gubernatorial reappointment of Candice Allphin to the State Building Authority	Candice Allphin
<u>S 1271</u>	Relating to the State symbols to provide that the Idaho Giant Salamander is designated to be the State amphibian	Senator Ward-Engelking and Ilah Hickman
<u>S 1258</u>	Relating to Codifier Corrections to make various corrections and technical corrections to the Idaho Code.	Katharine Gerrity, Research and Legislation
MINUTES:	Minutes of January 22nd	Senators Stennett and Winder
	Minutes of January 29th	Senators Siddoway and Davis
	Minutes of February 17th	Senators Johnson and Hill

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie

Sen Davis

Sen Fulcher

Sen Hill

Sen Winder

Sen Lodge

Sen Siddoway

Sen Stennett

Sen Werk

COMMITTEE SECRETARY

Twyla Melton

Room: WW42

Phone: 332-1326

email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 21, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Johnson (Fulcher), Hill, Winder, Lodge, Siddoway and Stennett

ABSENT/ EXCUSED: Senator Werk

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.

RS 22905 A Unanimous Consent Request from the Commerce and Human Resources Committee Relating to Exemptions from Coverage from the Worker's Compensation Law in Reference to Sole Proprietorships; presented by Senator Johnson.

MOTION: **Senator Winder** moved to send **RS 22905** to print. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

RS 22891 A Unanimous Consent Request from the Commerce and Human Resources Committee Rejecting a Certain Rule Docket of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors; presented by Senator Patrick.

RS 22929 A Unanimous Consent Request from the Transportation Committee Regarding Legislation Creating a Process whereby the Idaho Transportation Board may Provide Maintenance of a Highway not being Adequately Maintained by a County or Highway District; presented by Senator Brackett.

MOTION: **Senator Hill** moved to send **RS 22891** and **RS 22929** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENTS: **Senator Siddoway** moved to send the gubernatorial appointment of Megan Ronk to the Human Rights Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

Senator Winder moved to send the gubernatorial appoint of Brian Scigliano to the Human Rights Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

Senator Stennett moved to send the gubernatorial appoint of Estella O. Zamora to the Human Rights Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
APPOINTMENTS:**

The Gubernatorial Appointment of Susan Kerrick to the Idaho Lottery Commission (Commission).

Ms. Kerrick said she is a teacher at the Kendrick Junior-Senior High School and wanted to be on the Commission because the money goes to education. She is new to the Commission, has attended one meeting and is still unsure of what her responsibilities will be.

Senator Hill thanked Ms. Kerrick for being there and for her service, and asked her what she thought her role on the Commission would be. **Ms. Kerrick** replied that the Commission would probably have oversight over what the lottery does with their money and she may be able to make suggestions from time to time but did not know specifically what her role would be.

Chairman McKenzie said it is nice to have different perspectives on the Commission and that a teacher would bring a good point of view because so much of the money does go to schools.

The Gubernatorial Appointment of Timothy N. Anderson to the State Building Authority Board of Commissioners (Board).

Senator McKenzie asked Mr. Anderson what he thought his role would be on the Board.

Mr. Anderson replied that he is a lifetime Idaho resident with a background in accounting and the Board dealt with the way projects are funded. He would bring insight as to the most efficient way to fund those projects. **Chairman McKenzie** noted that Mr. Anderson is a graduate of Idaho State University and Brigham Young University.

Senator Hill stated that he and Mr. Anderson used to be partners in the same CPA firm and that he was comfortable with him serving. Mr. Anderson has also served on the Madison School District School Board, and the Senator considered them heroes. **Senator Hill** asked if there was anything that Mr. Anderson learned on the School Board that might help in this capacity. **Mr. Anderson** replied that his School Board experience taught him the difference between government and management and that a well served board can provide both. Also, experience in working as a committee and respecting people's different backgrounds and the diversity they bring will be invaluable.

Senator Siddoway asked how many meetings Mr. Anderson has attended and asked if he could explain the responsibility of the Board. **Mr. Anderson** replied that he has attended four phone meetings. The responsibility of the Board is to obtain financing for projects the Legislature has approved through public bond offerings and by negotiating the best rates for those bonds. **Senator Siddoway** asked if the Board had the power to veto certain projects due to obstacles in financing. **Mr. Anderson** replied that he was unsure.

Chairman McKenzie thanked Mr. Anderson for serving as a volunteer and giving his time.

The Gubernatorial Reappointment of John Ewing to the State Building Authority Board of Commissioners (Board).

Chairman McKenzie asked how Mr. Ewing considered his role in the past and how it relates to the Board going forward.

Mr. Ewing said he has been on the Board 25 years. The Capitol renovation was his most interesting case. The Board finds financing for projects, reviews those projects and is involved in soliciting architects and other contractors. These activities are his areas of expertise.

Senator Siddoway asked if the Board had the power to accept or reject a project. **Mr. Ewing** said they did have that authority.

Senator Hill asked in what kind of circumstances a project might get accepted or rejected i.e. financial, zoning, construction. **Mr. Ewing** replied that the first thing they look at is, can it be done. Can they get financing to meet the needs of the State and the financial status of the department doing the project? Can they repay the funding?

Senator Winder asked if the Board had a role in the Ada County Courthouse rehabilitation and reconstruction. **Mr. Ewing** replied that he was unaware of any role the Board had in that matter.

Senator Davis said that he had a different understanding of the discretion of the Board. It was his understanding that they implement policy, not make policy. There is a separate decision maker that has lawful authority to determine whether a project should go forward and made that determination, then the Board's function is to implement that project. **Mr. Ewing** responded that he was unsure and sincerely hoped that he had not misspoke. **Senator Davis** replied that he knew that Mr. Ewing would never mislead the Committee and invited Wayne Hammon, Executive Director, Idaho Association of General Contractors, to provide further clarification.

Mr. Hammon explained that if the Board is presented with a project that has been authorized by the Legislature for funding, the Board's objective is to implement that plan. However, if there are circumstances in the interest rate market or in the development of the project where it would appear that it would not be feasible, the Board has the legal authority to stop a particular project and reconsider it. When the Legislature authorized the funding of a project, they consider what the interest rate was at the time. The issuance of bonds takes place sometime later and there can be dramatic changes in the market. It is his belief that the Board has the legal authority not to issue bonds if the funding is substantially different then when the Legislature considered it and the budget was authorized.

Senator Siddoway asked if that authority extends to a fault in the design. **Mr. Hammon** responded that the Board addresses the actual design and construction of projects in two different ways: The Board is involved in the financing only, and another entity controls the design and construction of the project, so the Board would not have any control over those issues except as it would apply to the financing and repayment of the bonds. On other projects, the Board has control of the financing but also controls the design and construction contracts, which gives them a more immediate control over the project so it will fit the funding and the schedule.

Chairman McKenzie thanked Mr. Ewing for the information and for serving so long on the Board.

The Gubernatorial Reappointment of Candice Allphin to the State Building Board of Commissioners (Board).

Chairman McKenzie asked about her current function and her role going forward.

Ms. Allphin said her function is to be informed and understand the issues in order to review the financials since her background is in finance.

Senator Stennett asked how often the Board met. **Ms. Allphin** replied that it depended on how many projects were underway.

Chairman McKenzie asked for progress on the parking garage. **Ms. Alphin** replied that she was unsure. **Senator Winder** said that the garage was progressing and is scheduled to be opened in the summer.

S 1271

Relating to the State Symbols to Provide that the Idaho Giant Salamander is Designated to be the State Amphibian; presented by Senator Ward-Engelking and Ila Hickman.

Senator Ward-Engelking introduced **S 1271** and passed the microphone to Ila Hickman to present the bill. **Ms. Hickman** thanked the Committee for taking the time to consider the bill which seeks to add the giant salamander as the state amphibian. She said that there were 15 amphibians native to Idaho but several were also located in other states. The Idaho Giant Salamander was the best candidate to represent the State because it makes its home almost exclusively in Idaho. She said that she has received 101 votes to have the Idaho Giant Salamander as the state amphibian. She said that Superintendent Luna supports the bill, and since the last hearing, the likes on her Facebook page increased dramatically. Raising awareness of amphibians could also raise awareness for Idaho and the State's rivers, streams and lakes.

Senator Davis said that he has been on the Committee for 13 years and Ms. Hickman's presentation was on par with a professional; her passion was engaging. He was looking forward to hearing more.

Senator Lodge asked how the numbers of the giant salamander could be increased and if it could be adapted to other parts of the State. **Ms. Hickman** replied that the awareness brought by the legislation might facilitate more understanding of the salamander and that it might be possible to relocate some of them.

Senator Siddoway said he was the person who said no to the Girl Scouts and that he would likely be a no vote due to some of the concerns raised in the letters.

Senator Stennett said she wished that **Ms. Hickman** could present the bill on the Senate floor because she was such a great speaker.

Frank Lundberg, a wildlife public policy advisor, testified in favor of the bill. His full testimony is attached to the Minutes (see attachment a).

Senator Davis asked if it was important to include the scientific name as well as the common name. **Mr. Lundberg** replied that it was not. **Senator Davis** asked why the giant salamander should be chosen over the Coeur d' Alene salamander. **Mr. Lundberg** said that the giant salamander was 95 percent based in Idaho while the other species existed in other states. **Senator Davis** asked about the breadth of coverage of the giant salamander over the State. **Mr. Lundberg** answered that it primarily occupied territory from McCall to Coeur d' Alene and exists in about one-third of the State.

Senator Lodge asked if Ms. Hickman had involved other schools in this process. **Ms. Hickman** said that involvement was primarily in the Boise school districts. **Senator Lodge** advised reaching out to the rest of the State's schools in order to raise awareness. **Mr. Lundberg** responded that he had contacted people in Lewiston, Pocatello and the Treasure Valley and had very positive response because it is a creature that is unique to Idaho and had Idaho associated with its name.

MOTION:

Senator Stennett moved to send **S 1271** to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion.

Senator Davis said that not all state symbols are located throughout the entire State and that in every case, there is a substantial uniqueness to Idaho that this proposal reflects. **Senator Davis** said he would support the motion.

Motion carried by **voice vote**.

S 1258

Relating to Codifier Corrections to make Various Corrections and Technical Corrections to the Idaho Code; presented by Katharine Gerrity, Research and Legislation.

MOTION:

Senator Davis moved to send **S 1258** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

MINUTES:

Senator Winder moved to accept the Minutes of January 22, 2014. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Senator Siddoway moved to accept the Minutes of January 29, 2014. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Senator Johnson moved to accept the Minutes of February 17t, 2014. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

Chairman McKenzie thanked the Committee for their work and announced that there would be meetings on Monday and Wednesday of next week. There being no further business, **Chairman McKenzie** adjourned the meeting at 9:08 a.m.

Senator McKenzie
Chair

Twyla Melton, Secretary

Assisted by David Ayotte

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, February 24, 2014

SUBJECT	DESCRIPTION	PRESENTER
VOTE - GUBERNATORIAL APPOINTMENTS:	Vote on Gubernatorial appointment of Susan Kerrick to the Idaho Lottery Commission.	
VOTE - GUBERNATORIAL APPOINTMENTS	Vote on Gubernatorial appointments of Timothy N. Anderson, John Ewing and Candice Allphin to the State Building Authority	
GUBERNATORIAL APPOINTMENT:	Gubernatorial appointment of Gary Michael to the Idaho Lottery Commission.	Gary Michael
RS22866 A UNANIMOUS CONSENT REQUEST	From the Education Committee - A Concurrent Resolution relating to the Idaho Professional Technical Education system.	Senator Mortimer
RS22897	A Concurrent Resolution to read the winning essay from the Idaho Patriot Academy into the journals of the Senate and House of Representatives.	Senator Nuxoll
RS22943	A Concurrent Resolution to honor three Idaho servicemen who made the ultimate sacrifice during the past year.	Senator Davis
H 365	Relating to Emergency Communications to delegate to the Adjutant General the responsibility of selecting board members for the various agencies within the Idaho Military Division.	Brig Gen Brad Richy, Military Division
H 366	Relating to the National Guard by removing an entitlement to pay an amount that is below minimum wage.	Brig Gen Richard Turner, Military Division
H 378	Relating to Idaho Day to officially recognize March 4 each year as Idaho Day.	Representative Bateman

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
 Sen Davis
 Sen Fulcher
 Sen Hill
 Sen Winder

Sen Lodge
 Sen Siddoway
 Sen Stennett
 Sen Werk

COMMITTEE SECRETARY

Twyla Melton
 Room: WW42
 Phone: 332-1326
 email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 24, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Senators Davis, Johnson (Fulcher), Hill, Winder, Lodge, Siddoway, Stennett and Werk

ABSENT/ EXCUSED: None

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 meeting to order at 8:00 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Siddoway** moved to send the gubernatorial appointment of **Susan Kerrick** to the Idaho Lottery Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

Senator Hill moved to send the gubernatorial appointments of **Timothy Anderson, John Ewing** and **Candice Allphin** to the State Building Authority be sent to the floor with the recommendation that they be confirmed by the Senate. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: Gubernatorial appointment of Gary Michael to the Idaho Lottery Commission.

Chairman McKenzie introduced Gary Michael and welcomed him to the committee. He asked Mr. Michael to describe his experience and how he sees his role with the Idaho Lottery Commission (Commission).

Mr. Michael stated that his experience has been positive and that the Commission is well run. Members have a good understanding of the priorities and how the business model is supposed to work.

Senator Stennett asked what Mr. Michael could bring to this Commission. **Mr. Michael** replied that his gaming and entertainment business experiences have given him an understanding of what is happening in the industry. He understands the emphasis that must be placed on the risk, compliance and the need for an active review of the financial component, which is his areas of expertise.

Senator Davis asked why Mr. Michael voluntarily surrendered his CPA license. **Mr. Michael** explained that he was a CPA with Albertsons, and when he was asked to take over in other administrative areas in the organization, maintaining the license was not a priority and it involved continuing education and actively working in the field. Since he would not be in a position to do this, he voluntarily gave up his license.

Senator Werk expressed his concern about using school children in some of the advertisements and requested Mr. Michael's view on advertising for the lottery. **Mr. Michael** responded that advertising is a challenge, but the Commission is aware of the appropriate approach.

Senator Winder commented on how often the legislators hear about the amount of money given to schools but no one talks about the amount of money that goes out of Idaho's economy to other areas of the country. How would you find a balance? **Mr. Michael** stated that there are a lot of costly things people do for entertainment. The lottery is part of entertainment and the average transaction is about \$5.

RS 22866 A Unanimous Consent Request to Print from the Education Committee Relating to the Idaho Professional Technical Education System; presented by Senator Mortimer.

MOTION: **Senator Winder** moved to send **RS 22866** to print. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

RS 22897 A Concurrent Resolution to Spread the Winning Essay from the Idaho Patriot Academy across the Journals of the Senate and House of Representatives; presented by Senator Nuxoll.

Senator Nuxoll explained the history and purpose of the Idaho Patriot Academy. She presented the essay of Ms. Elizabeth Harris, the 2013 first place winner. She read Ms. Harris' essay on "What Liberty Means to Me", and she requested that it be spread on the pages of the Journals of both houses.

MOTION: **Senator Fulcher** moved to send **RS 22987** to print. **Senator Winder** seconded the motion.

Senator Davis commented that he is sure this is a remarkable essay but he can't think of a time when the Legislature passed a concurrent resolution for this purpose. He is concerned about the process and the precedent it may set. It is important to consider those issues before voting.

SUBSTITUTE MOTION: **Senator Davis** moved to hold **RS 22897** in Committee until Wednesday morning. **Senator Lodge** seconded the motion.

Senator Davis could not recall ever printing a concurrent resolution to spread something on the pages of the Journal. A unanimous consent request is the method to do this. He pointed out that passing a concurrent resolution simply encourages an action, it doesn't constitute the action. Also, if another legislator has a constituent's or organization's paper that means a lot to that legislator, should it be spread on the pages of the Journal? There is a question as to whether we are focusing on the organization or on the message itself. **Senator Davis** expressed a desire to have some time to consider these questions.

Senator Hill asked if this essay contest is done periodically or if this is a one time thing. **Senator Nuxoll** replied that it is done every year. **Senator Hill** noted that saying "Be It Resolved" indicates that this will be an annual thing that will automatically be in the pages of the Journal each year. **Senator Nuxoll** replied that the process was suggested by the Legislative Services Office. This essay was to be the first and the only one to be spread across the pages of the Journal. She is willing to do whatever the Committee wants. **Senator Hill** stated that he is trying to determine what the intent is and then to decide if the resolution follows the intent. **Senator Nuxoll** explained that her intent is on the Statement of Purpose (SOP). **Senator Hill** said he didn't disagree with the intent of the SOP, but he is still concerned that as presented, the resolution will be automatically renewed every year and that the winning essay will appear in the Journal. Is your intent that only this one essay will be governed by **RS 22897** or will future essays automatically be included? **Senator Nuxoll** stated that her intent was that only the first one was to be read into the Journal. She could find out if those who made the request agreed with that intention.

Senator Winder expressed that he would like a few days to resolve this issue.

Senator Siddoway said he would be in favor of Senator Davis's motion. His concern dealt with the precedent this sets. Although we may agree with the ideas in Ms. Harris's essay, if we set this precedent, in order to be fair we may find ourselves having to respond to organizations with whom we may not agree and who ask to have their papers in the journals.

Senator Werk stated that he would like to see the prompt for this essay, and asked her to provide that. He also is concerned about opening the door to spreading essays across the Journal of the Senate.

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

**VOTE ON
SUBSTITUTE
MOTION:**

RS 22943

A Concurrent Resolution to Honor Three Idaho Servicemen Who made the Ultimate Sacrifice During the Past Year; presented by Senator Davis.

Senator Davis invited intern, Natalie Wilson to present the RS. **Ms. Wilson** introduced the memorial to the following Idaho servicemen killed in action in Afghanistan during the past year:

Thomas Murach

- 22 years old;
- Killed by an improvised explosive device;
- First tour of duty in Afghanistan;
- Worked as a reconnaissance platoon sniper; and
- Survived by his parents and three siblings.

Octavio Herrera

- 26 years old;
- Killed by enemy fire protecting a fellow soldier;
- Third tour of duty in Afghanistan; and
- Survived by his wife, parents and three siblings.

David Lyon

- 28 years old;
- Killed by an improvised explosive device that was detonated near his convoy;
- Worked as a logistics readiness officer and was performing in a combat advisory mission with the Afghan National Army; and
- Survived by his wife, parents and a brother.

Ms. Wilson stated that this resolution is the least we can do to honor these men and to show their families our deep appreciation for their sacrifices.

MOTION:

Senator Lodge moved to send **RS 22943** to print. **Senator Stennett** seconded the motion. The Motion carried by **voice vote**.

Senator Werk complimented Ms. Wilson for doing a great job in her presentation.

H 365

Relating to Emergency Communications to Delegate to the Adjutant General the Responsibility of Selecting Board Members for the Various Agencies within the Idaho Military Division; presented by Brigadier General Brad Richy, Director, Idaho Bureau of Home Land Security (Bureau).

General Richy reported that **H 365** is a housekeeping bill directed toward the Emergency Communication Commission (ECC) and the Statewide Interoperability Executive Council (SIEC) which the Bureau administers. Currently, the selection for appointment is through the Office of the Governor; this legislation changes that portion of the process. As part of the SIEC process, selections would be made according to Idaho Code and the Adjutant General and General Richy would, in collaboration with the Governor's office, select the candidates.

Senator Fulcher stated that he has received messages of concern from various sheriffs about moving away from the executive branch. He asked General Richy if he knew why it would be an issue **General Richy** replied that he recently learned that the Sheriffs' Association had some opposition to this bill and has been advised of their concerns. This legislation is a way to expedite the process of appointing members in order to maintain a full committee as opposed to ongoing vacant or expired positions.

Senator Davis stated that his understanding of Idaho law is that if you are the occupant of an appointed seat, you continue to serve even after your term expires unless the statute specifies that it does not continue. He quoted Idaho Code § 46-1212 as saying " ... appointed for a term of four years." He said there is nothing that says they cannot be a hold over occupant in that position. **Senator Davis** asked if it was the General's understanding that when a SIEC member's term ends he cannot be a hold-over occupant in that position until a successor is appointed. **General Richy** agreed with Senator Davis that the person could remain in that position. He added that it would be up to the Adjutant General and the Bureau to canvas the association board to ensure that he is the member the association would still like to have. **Senator Davis** asked if the Adjutant General has a legal duty under current law, to canvas that board to determine if that is who they want to continue serving after the term of office expires. **General Richy** said that he did not think so.

Senator Siddoway asked what General Richy perceives as the difference between "appoint" and "select". **General Richy** stated that the Governor's office appoints individuals to the ECC. He went on to say that he doesn't think the Adjutant General has the ability to appoint, but does have the ability to select.

Senator Davis observed that this provides that the Adjutant General makes the selection; who makes the appointment? **General Richy** said there is no appointment to the ECC. In the new legislation "appoint" was removed and replaced with "select". **Senator Davis** followed up with several questions in order to clarify the difference between "appoint" and "select." **General Richy** clarified that the Governor would appoint and the Adjutant General would select. **Senator Davis** continued asking for clarification regarding the roles of the Adjutant General and the Office of the Governor under this legislation. **General Richy** said that the Adjutant General would have the final decision but that decision would be amenable to the Governor's office. **Senator Davis** said he was hearing that the Adjutant General would make the selection but the Governor would make the appointment. **General Richy** said that is not correct. The Adjutant General would have the final decision but before he made the selection, he would discuss that selection with the Governor's Office to ensure the selection that he is about to make is amenable to the Governor's Office.

Chairman McKenzie recognized Michael Kane to testify.

Michael Kane, representing the Sheriff's Association (Association), stated that the Association has a very good working relationship with the Adjutant General's office, but they do oppose this bill. He asked that the bill go to the Amending Order because there are concerns about the Governor being cut out of the process for appointing committee members. This bill would produce an unusual situation where elected officials would be appointed by non-elected officials. Another concern is that one member of the board would appoint all the other members of the board as well as having the ability to appoint the chair and vice chair. **Mr. Kane** said that the Association supports Section 2 of the bill which removes the Governor from the process involving administrative support of the SIEC. **Mr. Kane** requested that **H 365** go to the Amending Order. Section 2 would remain and all other parts would be deleted because they believe the members should be appointed by the Governor.

Senator Fulcher asked if members of the ECC would have any oversight over how money is spent for the police force. **Mr. Kane** explained that the Sheriffs' involvement with the fund was created about ten years ago when they wanted cell phone providers to pay into the ECC fund. Most of that money goes directly to the counties from the providers, but a percentage goes to the ECC and then they grant funds to the police agencies.

Senator Winder referred to the statement that it would be unusual that the person selecting the group could actually serve as the chairman. He asked if the chairman has historically been a member. **Mr. Kane** replied that one of the members of the ECC is the Adjutant General, so there could be a situation where one of the board members would be in a position to appoint the other board members. In Section 3, they are also selecting the Chair and the Vice Chair. The Sheriffs do have concerns about that.

Senator Siddoway asked for clarification regarding an elected official being appointed by a non elected official. **Mr. Kane** pointed out that members of the Commission include elected officials such as mayors, sheriffs, or a prosecutor. The Governor would no longer be making the appointment, instead a director of a state agency would be making that appointment. **Senator Siddoway** asked if there are boards where elected officials serve as members. **Mr. Kane** answered that there are, but there are none he is aware of where a non-elected official appoints a state commissioner.

General Richy commented that the SIEC elects the chair position as set out in statute and that the Governor will appoint the chair. The vice chairman is elected from the membership in both the SIEC and the ECC.

Senator Fulcher stated that the intent of this bill is to relieve administrative burden. There are some ramifications such as the situation where we could have a non elected official that has some degree of oversight for the funds and operations of police forces. He said that he would not be able to support the bill.

Senator Werk asked if there is a sense of urgency with this bill. He stated that with all of the questions about the bill, he would prefer to not vote on it at this time.

MOTION:

Senator Werk moved to hold **H 365** in committee. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

H 366

Relates to the National Guard by Removing an Entitlement to Pay an Amount that is Below Minimum Wage; introduced by Brigadier General Dick Turner, Asst. Adjutant General for Air, Military Division.

General Turner explained that **H 366** is housekeeping in nature and pertains to State active duty. According to statute enlisted personnel, commissioned officers

and warrant officers shall be paid \$55.00 per day or the same pay as personnel of like grade and length of service in the Armed Forces of the United States, whichever sum is greater. A daily wage of \$55.00 is less than minimum wage in Idaho. The lowest military pay grade is approximately \$78.00 per day. The intent of this bill is to strike the language referring to \$55.00 per day and change the statute to say that when the National Guard is ordered to active duty in the service of the State, the enlisted personnel, the commissioned officers and the warrant officers shall be entitled to the same allowances as those personnel of like grade and length of service that are in the Armed Forces of the United States.

Senator Stennett asked where the \$55.00 started. **General Turner** replied that he could not find where it started; they are just trying update the statute. **Senator Stennett** asked how much are enlisted personnel making now. **General Turner** responded that the lowest is \$78.00 per day, including a basic allowance for housing and for subsistence.

Senator Winder asked if this is only when they are called to active duty in the State and if it applies to a full time job with the Guard. What would happen if they were called up by the Federal government or the Department of Defense for deployment? **General Turner** said they are called to duty in the State for emergencies; we are called up in support of the Bureau of Homeland Security. He explained that when they are called up on the Federal side they are paid the same amount as active service according to their rank and length of service.

MOTION:

Senator Siddoway moved to send **H 366** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 378

Relating to Idaho Day to Officially Recognize March 4th each year as Idaho Day; presented by Representative Bateman.

Representative Bateman stated that this is an indirect product of the Sesquicentennial Celebration of the founding of Idaho in 1863. This legislation is the result of discussions with historical societies, educators, the Commission of the Arts, and many others, who did not want to not wait another 50 years. He pointed out that the legislation does not call for the closing of state offices or schools. March 4th was chosen because both the schools and the Legislature are in session. **H 378** establishes an Idaho Day to be celebrated each year on March 4th to commemorate the creation of Idaho by President Abraham Lincoln on that day in 1863. **Representative Bateman** then gave a tribute to Idaho.

MOTION:

Senator Davis moved to send **H 378** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

Senator Werk wanted to point out that the day is actually a command as well as a day on the calendar—"March Fo(u)rth".

The motion carried by **voice vote**.

ADJOURNED:

Chairman McKenzie adjourned the meeting at 9:12 a.m.

Senator McKenzie
Chair

Twyla Melton, Secretary

Assisted by Carol Cornwall

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 26, 2014

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT:	Vote on the Gubernatorial Appointment of Gary Michael to the Idaho Lottery Commission.	
<u>RS22897C1</u>	A Concurrent Resolution regarding the Idaho Patriot Academy.	Senator Nuxoll
<u>RS22534C1</u>	Relating to County Officers to provide for duties of the Attorney General relating to preliminary investigations and actions against county elected officers.	Senator Rice
<u>RS22963</u>	Relating to the Legislature to confirm and verify that a named substitute for a legislator is a qualified person residing in that legislative district.	Senator Nonini
<u>RS22964</u>	A Concurrent Resolution recognizing and honoring Kaitlyn Farrington for her performance at the 2014 Winter Olympics.	Senator Stennett
<u>S 1350</u>	Relating to the Powers and Duties of the State Treasurer to establish an advisory board appointed by the governor.	Pro Tem Hill
<u>SJM 104</u>	A Joint Memorial to request Congress to comply with its Constitutional duty to keep a public record of applications for the states for a convention pursuant to Article V of the U. S. Constitution.	Senator McKenzie
<u>S 1289</u>	Relating to an Application of the State of Idaho Under Article V of the U. S. Constitution to provide a process for the selection of Idaho delegates.	Senator McKenzie

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
 Sen Davis
 Sen Fulcher
 Sen Hill
 Sen Winder

Sen Lodge
 Sen Siddoway
 Sen Stennett
 Sen Werk

COMMITTEE SECRETARY

Twyla Melton
 Room: WW42
 Phone: 332-1326
 email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 26, 2014

TIME: 8:03 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 8:03 a.m. with a quorum present, welcomed the Committee and announced the first order of business.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Lodge** moved to send the gubernatorial appointment of Gary Michael to the Idaho Lottery Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 22534C1 Relating to County Officers to Provide for Duties of the Attorney General Relating to Preliminary Investigations and Actions Against County Elected Officers; presented by Senator Rice.

Senator Rice stated the purpose of the bill would be to eliminate conflicts of interest currently existing for county prosecutors as representatives for elected county officials. He explained that a county prosecutor may have a conflict of interest if an elected county official was being investigated for misconduct and that this legislation would allow the Attorney General to investigate. **Senator Rice** further clarified that the Attorney General's budget request has included sufficient staffing to facilitate this legislation.

MOTION: **Senator Siddoway** moved to print **RS 22534C1**. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 22963 Relating to the Legislature to Confirm and Verify that a Named Substitute for a Legislator is a Qualified Person Residing in that Legislative District; presented by Senator Nonini.

Senator Nonini stated that the purpose of this legislation is to make sure a named substitute for a legislator is a qualified person that resides in the legislative district and that the legislation also describes whose responsibility it is to verify that the substitute's residence is in the appropriate voting district. **Senator Nonini** provided a brief history of the reasons for the legislation and clarified that it would be the legislator's responsibility to verify the substitute's residence. There was also discussion about the separation of powers. The Governor would name a replacement but the legislator would be responsible for finding a qualified substitute.

Senator Werk noted that there was no penalty for failure to verify a substitute. Should someone other than the legislator be responsible to verify? If there was a violation, should the legislator be sanctioned in an election by voters? Senator Nonini answered that it is the legislator who is naming the substitute. Ultimately, the voters could hold the legislator responsible by not reelecting him.

MOTION:

Senator Werk moved to print **RS 22963**. **Senator Winder** seconded the motion.

Senator Lodge recounted how Senators submit a list of substitutes at the beginning of each session and asked if Senator Nonini knew if the person mentioned in the history of this legislation had been named on a submitted list of substitutes. **Senator Nonini** indicated that the person named to fill in for the Representative had not been previously named on a list.

Senator Stennett asked if it was the failure of the legislator not to have seen that the substitute was not in the correct district and wondered if there should be extra oversight by someone else for verification. **Senator Nonini** indicated that it is the ultimate responsibility of the legislator to verify the resident district of the substitute. He had discussed the issue with Senate leadership.

Senator Siddoway questioned whether there should be ramifications if a legislator did not responsibly verify a substitute. **Senator Nonini** clarified that this legislation lays the groundwork for procedures to follow and that there should be no punishment. Discussion ensued concerning the specific history causing the need for legislation. **Senator Lodge** asked why they fill out the list if it isn't being used.

Senator Werk stated that minority leadership had never been contacted concerning substitute validity.

Senator Davis asked if § 67-412 intended to apply to both temporary service as well as those who would benefit from the list compiled after every election cycle. **Senator Nonini** clarified that the list compiled after each election cycle is verified by the Secretary of State's office. **Senator Davis** said that most Senators believe that what is being stated in this bill is what should be done. It may be that the same rules should apply to the list as well as the substitutes.

Chairman McKenzie reviewed § 67-416 concerning permanent emergency interim successors. The language suggests that it is required that they are qualified electors in a district which would be the same thing. If this is being done for the temporary list, it should be done for the emergency list as well.

VOTE:

The motion carried by a **voice vote**.

RS 22897C1

A Concurrent Resolution Regarding the Idaho Patriot Academy; presented by Senator Winder.

Senator Winder stated that the purpose of this legislation was to recognize the importance of teaching students about the proper role of good governance, the sacrifices made to protect and preserve a free and moral society and to acknowledge the Idaho Patriot Academy (Academy). The revised **RS 22897C1** addresses a concern about spreading the essay across the journals and removes that requirement since it would set a precedent. The change puts the focus on acknowledging the Academy itself and what it was doing for students.

MOTION:

Senator Davis moved to print **RS 22897C1**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 22964

A Concurrent Resolution Recognizing and Honoring Kaitlyn Farrington for Her Performance at the 2014 Winter Olympics; presented by Senator Stennett.

Senator Stennett acknowledged Kaitlyn who is from Bellevue, the Senator's home district, for her performance at the 2014 Winter Olympic Games. Kaitlyn is the gold medalist in the woman's half pipe.

MOTION:

Senator Winder moved to print **RS 22964**. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

S 1350

Relating to the Powers and Duties of the State Treasurer to Establish an Advisory Board Appointed by the Governor; presented by Senator Hill, President Pro Tempore.

Senator Hill explained that **S 1350** sets up an investment advisory board within the State Treasurer's office. He recounted the recommendation made by legislative auditors and the need to reduce the risk of management override controls by creating a five-person board to be appointed by the Governor.

Senator Hill recounted the qualifications of those persons appointed, costs involved and number of times per year the board would meet. He further explained § 2 and the problems associated with some investments during the downturn, why those investments would not be permitted in the future and time needed to phase out current investments of that type.

Senator Werk asked if the nature of the board concerned investments or procedures. **Senator Hill** clarified that this was only an advisory board and cited wording in the legislation directing the areas where the board could offer advice. **Senator Werk** asked if it was in the purview of the investment advisory board to observe and make recommendations for transfers between funds. **Senator Hill** said the advisory board would have the ability to observe and advise concerning transfers between funds.

Senator Stennett asked what ensures that the oversight of the advisory board is actually implemented. **Senator Hill** noted that an appointed board would have difficulty removing powers from an elected official and explained that the board is "another set of eyes" that might catch mistakes and prevent false accusations. The advisory board would also provide accountability.

MOTION:

Senator Siddoway moved that **S 1350** be sent to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion.

Senator Hill cited a letter from the State Treasurer voicing full support of this legislation which is included with these minutes (see attachment a).

Senator Davis emphasized that, by reference, this legislation incorporates the Idaho Uniform Prudent Investor Act, Chapter 5, Title 68, Idaho Code and that the advisory board mentioned would operate in accordance with that act.

VOTE:

The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Chairman McKenzie passed the gavel to Vice Chairman Lodge.

SJM 104

A Joint Memorial to Request Congress to Comply with its Constitutional Duty to Keep a Public Record of Applications for the States for a Convention Pursuant to Article V of the U.S. Constitution; presented by Chairman McKenzie.

Chairman McKenzie explained that the next two pieces of legislation relate to Article V of the U.S. Constitution. Neither are calling for a convention under Article V, neither of them promote the call of a convention but there are things that should be in place to deal with Article V. There are two ways in which an Article V convention may be called; one being a call by Congress and the other by the several States. **Chairman McKenzie** stated that, in his research, he

found Congress does not keep track of the applications from the states. There is no official public record of applications that have been filed. Under Article V, Congress has a duty to keep those records. As a state, Idaho should be aware of those applications. He explained that **SJM 104** would require Congress to keep a record of applications from states in a form that is accessible to the people of the U.S.

Senator Stennett asked if Congress was already required to keep a record via the U.S. Constitution. **Chairman McKenzie** said the duty is implied in Article V. **Senator Stennett** stated that if Congress is ignoring the duty implied in Article V now, would Congress ignore **SJM 104**. **Chairman McKenzie** said that historically, when a number of states have made application, Congress will call for a convention, but there needs to be an easily accessible record as to which states have made an application.

Senator Fulcher asked if this is a record keeping request; what will be the ramifications if that record was not kept? **Chairman McKenzie** clarified that if a record is not kept then states may not be aware of what applications exist. There could be outstanding applications that need to be terminated.

MOTION:

Senator Davis moved to send **SJM 104** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

S 1289

Relating to an Application of the State of Idaho Under Article V of the U.S. Constitution to Provide a Process for the Selection of Idaho Delegates; presented by Chairman McKenzie.

Chairman McKenzie explained that this legislation addresses a procedure to provide for delegate selection to an Article V Convention and the oath administered to a delegate. He further recounted other states' experience with similar legislation and the recent history of states calling for a convention. Currently, there are 20 states that have called for a balanced budget convention. Before or if a convention happens, a mechanism should be in place to pick a delegation. Historically, what is most likely to happen is that as the number of states gets closer to the requirement, Congress will act.

Senator Davis asked about the number of delegates each state would have in an Article V convention. **Chairman McKenzie** answered that each state would have one vote but that seven delegates would be selected to represent Idaho's one vote. **Senator Davis** questioned the language of the legislation wondering why the vote of a single delegate would be void rather than the vote of the state. **Chairman McKenzie** clarified that the legislation is targeting an unfaithful delegate. Discussion ensued concerning convention calls and compliance of delegates.

Senator Davis questioned whether Article V allows the scope of a convention to be limited and mentioned Judge Bork's statement indicating the ability of the state to restrict the scope of a constitutional convention. **Senator Davis** asked to have the absence of express language addressed as well as Judge Bork's statement. **Chairman McKenzie** indicated that this is a tool for both Congress and the states equally as mentioned in the Federalist Papers, Article 43. He stated that in prior calls for amending conventions, the states set parameters for the delegates to follow; those delegates are agents of the state legislature. **Chairman McKenzie** clarified that the oath administered to a delegate would limit the scope of the convention and that unfaithful delegates would be replaced. He indicated that if the scope of the convention were changed, the delegates would withdraw. **Chairman McKenzie** stated that scholarly writing on this issue

disagrees with Judge Bork's conclusion. **Senator Davis** noted that there is other scholarly writing that supports Judge Bork.

Senator Werk expressed concern about the definition section. Article V in the U.S. Constitution and Article V in this bill do not match relating to specific amendments. There is a concern about "Application" in (3), line 35, making reference to "any state" instead of only the State of Idaho. **Chairman McKenzie** indicated that it is a general term and applies to any application by any state. In (4) it states that if the application of another state went beyond the scope set forth by Idaho, the Idaho delegates would not be authorized to vote for that application because it is beyond the scope Idaho set. An Article V convention defined in this statute is a convention calling for specific amendments and anything that goes beyond the scope that Idaho calls, the delegates will vote "no." **Senator Werk** questioned the point of a delegation that could not enter into a discussion about a different scope than what was called for by Idaho, expressing that the language was confusing. **Chairman McKenzie** outlined the concerns about a runaway convention that would go beyond the scope of what Idaho called for in a convention. Dialogue resulted concerning limiting the scope of the convention.

Senator Hill asked for an explanation of the ratification process and asked if it was a simple majority of both houses of Congress that could call a convention. **Chairman McKenzie** said it would take two-thirds to call a convention but a majority of legislatures in three-fourths of the states to ratify. **Senator Hill** questioned if a state could abstain from voting in a convention. **Chairman McKenzie** said the purpose of the two-thirds is to put a safeguard beyond the scope for which we send the delegates and cited the example of electoral voters in a presidential election.

Senator Werk revisited the oath administered to a delegate and the language he thought was in conflict. **Chairman McKenzie** clarified stating the language was compatible concerning a motion at the convention that is beyond the scope of the purpose the delegates were sent for and the duty to debate against any motion as well as vote against it.

Senator Winder questioned what happens if a convention is called and the scope is changed, whether Idaho delegates would have any other recourse than to go home or if there would be safeguards against establishing any rules outside of the scope. **Chairman McKenzie** explained that if Congress called a convention, which has happened numerous times, then Congress sets the procedures for that, and the states need to ratify it by legislature or by convention and they set the parameters for the convention. He further explained that if a convention is called by the states and Congress preempts the convention, the remedy would be with the courts.

Senator Werk spoke about his desire to have delegates negotiate and have dialogue concerning subjects not within the scope of what was called for by Idaho. **Chairman McKenzie** reiterated that the delegates are sent as agents of the legislature and limited in scope for the reason they were sent to the convention and explained further the mechanics of the legislature directing the delegates.

Vice Chairman Lodge recognized **Dale Pearce** as an interested party wishing to testify.

Mr. Pearce spoke about the history of a Convention of States and spoke in opposition to **S 1289**. What about the limitations that will be put on Idaho's delegates? Doesn't Article V say that Congress, when they call a convention, has the opportunity to say what will be done as far as delegates and how many each state can send? What about states with large delegations; would they like the votes based on population, not just one per state? **Mr. Pearce** quoted Robert Natelson from the Goldwater Institute, "the convention delegates have the power to draft amendments and to deliberate." That was Mr. Natelson's opinion. **Mr. Pearce** continued with several observations and examples of what could happen at a convention and pointed out that the "power brokers" would be there. He thanked the Committee for the opportunity to speak.

Chairman McKenzie asked if Mr. Pearce's research suggested that Congress would control a convention or change the requirements to ratify. If there is any doubt, why shouldn't we try to limit our delegates so there is a stronger possibility to control that convention? **Mr. Pearce** said that after a convention of states was called, Congress would not control that convention; the delegates would control the convention. **Chairman McKenzie** responded that if there is any possibility that the states can put limitations on the delegates that they send, why wouldn't that be put into statute? **Mr. Pearce** agreed.

Senator Siddoway asked if Mr. Pearce was opposed to a convention and questioned why he spoke so highly of the founding fathers that chose to place Article V in the Constitution. **Mr. Pearce** explained his hesitation concerns the type of delegates the states would put forward because of power and that Article V is only there to change the government. Discussion ensued concerning fear of a run away convention.

MOTION: **Senator Siddoway** moved to send **S 1289** to the floor with a **do pass** recommendation. **Chairman McKenzie** seconded the motion.

SUBSTITUTE MOTION: **Senator Fulcher** expressed his concern and made a substitute motion to hold **S 1289** in committee. **Senator Werk** seconded the motion.

Senator Davis expressed fear that a state would have a false sense of comfort in making a call for a convention of states. He recounted the history of the first convention and Rhode Island's lack of involvement. **Senator Fulcher** expressed the need for discussion on this matter and his respect for Chairman McKenzie. **Senator Werk** and **Vice Chairman Lodge** echoed respect for Chairman McKenzie and the importance of the issues that have been discussed. **Senator Siddoway** voiced willingness to risk everything, as our founding father's did, for this great nation and stated that the nation needs to control spending. He further stated his support for this legislation. **Senator Winder** echoed support for Chairman McKenzie

VOTE: The substitute motion carried by a **voice vote**.

PASSED THE GAVEL: Vice Chairman Lodge passed the gavel back to Chairman McKenzie.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 9:58.

Chairman McKenzie
Chair

Twyla Melton, Secretary

Assisted by Marian Smith

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 03, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS23024	A Senate Joint Memorial to Petition President Obama and Secretary of State John Kerry to Act to End the Unjust Imprisonment of U. S. Citizen and Ada County Resident, Pastor Saeed Abedini.	Senator Nuxoll
RS23039	A Senate Concurrent Resolution to Honor Four Idaho Servicemen Who Have Served their Country Honorable and Made the Ultimate Sacrifice.	Senator Davis

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie
Sen Davis
Sen Fulcher
Sen Hill
Sen Winder

Sen Lodge
Sen Siddoway
Sen Stennett
Sen Werk

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

- DATE:** Monday, March 03, 2014
- TIME:** 8:00 A.M.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman McKenzie, Senators Davis, Hill, Winder, Siddoway, Stennett and Werk
- ABSENT/ EXCUSED:** Senators Fulcher and Lodge
- 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 8:00 a.m. with a quorum present and introduced Senator Nuxoll to present **RS 23024**.
- RS 23024** A Senate Joint Memorial to Petition President Obama and Secretary of State John Kerry to Act to End the Unjust Imprisonment of U. S. Citizen and Ada County resident, Pastor Saeed Abedini.
- Senator Nuxoll** explained that the memorial is to petition President Obama and Secretary of State John Kerry to use every opportunity and resource to end the unjust imprisonment of U. S. citizen and resident of Ada County, Idaho, Pastor Saeed Abedini and to secure his immediate release. **Senator Nuxoll** described the circumstances under which Pastor Abedini is living while imprisoned at the Evin Prison in Iran and provided a history of events leading up to his imprisonment (See attachment A). A news release from the American Center for Law & Justice dated February 27, 2014, is included as an update about Pastor Abedini (See attachment B).
- MOTION:** **Senator Werk** moved, seconded by **Senator Winder**, to print **RS 23024**. Carried by **voice vote**.
- RS 23039** A Senate Concurrent Resolution to Honor Four Idaho Servicemen Who have Served their Country and made the Ultimate Sacrifice presented by Senator Davis.
- Senator Davis stated that a previous Concurrent Resolution had been printed honoring Idaho servicemen. However, another individual had been identified and was buried in Lewiston but it appeared, at that time, that there were limited ties to Idaho. Since then, it has been discovered that he has stronger ties to the state than previously thought. It is requested that this Concurrent Resolution be printed and function instead of the prior one that is currently in the 10th Order of Business. It is the intent, if approved, to have it printed, sent to the 10th Order and held until the time set aside on Friday for the memorial service.
- MOTION:** **Senator Winder** moved, seconded by **Senator Werk**, to print **RS 23039**. **Senator Werk** noted that the rules do not allow a concurrent resolution to be amended which means the concurrent resolution currently in the 10th Order cannot be changed. Carried by **voice vote**

ADJOURNED: **Chairman McKenzie** thanked the Committee and stated his appreciation in addressing both pieces of legislation in a timely manner. There being no further business, **Chairman McKenzie** adjourned the meeting at 8:13 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 05, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS23032	A CONCURRENT RESOLUTION to Recognize the 50th Anniversary of the Passage of the Civil Rights Act of 1964.	Senator Buckner-Webb
RS23059	UNANIMOUS CONSENT REQUEST TO PRINT BY THE AGRICULTURE COMMITTEE RELATING TO the Seed Indemnity Fund and the Commodity Warehouse Fund to Provide a Procedure for Review and Determination of Producer Claims.	Senator Bair
S 1356	RELATING TO THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT Relating to the Authentication and Preservation of Electronic Legal Material in Perpetuity and Allows for Permanent Access.	Dale Higer, Chairman Uniform Law Commission
S 1370	RELATING TO THE LEGISLATURE Relating to the Designation of a Qualified Substitute.	Senator Nonini
SJR 106	PROPOSING AN AMENDMENT TO THE CONSTITUTION to Allow the Legislature to Reconvene in a Special Session to Consider Bills Vetoed by the Governor Following the Adjournment of the Regular Session.	Senator Vick
S 1369	RELATING TO COUNTY OFFICERS to Eliminate a Conflict of Interest for County Prosecutors and in Certain Cases Moves the Misconduct Authority to the Attorney General.	Senator Rice
SJR 103	PROPOSING AN AMENDMENT TO THE CONSTITUTION Relating to Persons Subject to Military Duty to Provide that All Able Body Persons Would be Subject to Military Duty.	Senator Rice

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 05, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 8:03 a.m. with a quorum present.

RS 23059 A Unanimous Consent Request to Print by the Agriculture Committee Relating to the Seed Indemnity Fund and the Commodity Warehouse Fund to Provide a Procedure for Review and Determination of Producer Claims; presented by Senator Bair

MOTION: **Senator Siddoway** moved to send **RS 23059** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 23032 A Concurrent Resolution to Recognize the 50th Anniversary of the Passage of the Civil Rights Act of 1964; presented by Senator Buckner-Webb.

Senator Buckner-Webb requested the Committee's consideration of **RS 23032** to commemorate the 50th Anniversary of the Civil Rights Act of 1964 (Act). The Act acknowledged the need to change the culture of the United States and put that change into law. This Act is often referred to as the most important law passed in the last century. It broke down barriers to equal employment opportunities and grant equal access to public accommodations without regard to race, religion or gender. President John F. Kennedy proposed the legislation initially in 1963, and it was signed on July 2, 1964 by President Lyndon B. Johnson. The Act was enshrined in Idaho statute as the Idaho Human Rights Act in 1969 under the leadership of Senator Phil Batt. **Senator Buckner-Webb** gave her own personal story of the effect it had on her family and community.

MOTION: **Senator Hill** moved to send **RS 23032** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

S 1356 Relating to the Uniform Electronic Legal Material Act Relating to the Authentication and Preservation of Electronic Legal Material in Perpetuity and Allows for Permanent Access; presented by Dale Higer, Chairman, Uniform Law Commission (Commission).

Mr. Higer introduced Michael Greenlee, Associate Law Librarian, University of Idaho, College of Law at the Boise campus. **S 1356** addresses how the Uniform Electronic Legal Material Act should operate. If a state was to designate legal material, then it must ensure the material is authenticated, preserved for the future and provide for public access. **Mr. Higer** went through the bill and explained each section. He defined legal material, what "Official Publisher" meant, when the law is applicable, how electronic material is designated as official, the authentication of the official electronic record, and the effect of the authentication and how it

can be used. He went on to describe preservation and security, public access, standards uniformity and electronic signatures. The Act was circulated, with the help of Mr. Greenlee, to the Secretary of State's office, the Idaho Supreme Court and the Department of Administration. They are all supportive of this legislation.

Senator Hill asked about the fiscal note which reflected no fiscal impact. Will the effect of this bill result in upgrades to equipment, software, storage and personnel? That could be large sum of money. **Mr. Higer** said that the bill itself has no fiscal impact but if an entity wanted to upgrade, they would come to the Legislature to request funding. **Senator Hill** asked if the cost entered into any of the conversations. **Mr. Higer** deferred to Mr. Greenlee to address that question.

Mr. Greenlee stated that there might be an agency that would request funding to implement this program. Currently, only the Department of Administration uses an electronic program. The current computer capabilities would have to be evaluated to see what additional technology would be required. The effective date of the bill has been delayed until July 1, 2015 to allow time for the departments to evaluate their needs (see attachment a).

Chairman McKenzie asked what would be the different ways used to provide authentication under Section 60-305. **Mr. Higer** said that Section 60-309 sets the standards used to authenticate documents.

MOTION: **Senator Davis** moved to send **S 1356** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

S 1370 Relating to the Legislature Relating to the Designation of a Qualified Substitute; presented by Senator Nonini.

Senator Nonini explained that the purpose of **S 1370** is to clarify in code how a legislator, if they are going to be absent during the session, might name a replacement and who had the responsibility to ensure that the substitute legislator was qualified. He went on to explain how the issue was brought to his attention and then went through the changes in the current code and reviewed the new section.

Senator Werk referred to the new Section 67-412 where the designated person must be capable of assuming that role. The residency requirement is not an accurate standard because the person must be a registered elector within the district for one year prior to the election date. His concern is about the requirements when someone is actually qualified to be a substitute, and who makes that determination. **Senator Nonini** stated that his understanding was that a qualified person would be the same as a qualified elector. They would have to live in the district for a year prior to the general election. **Senator Werk** noted that the standard is not living in the district but being a registered voter in the district for a full year prior to the election date. He is concerned about the legislator understanding that point.

Senator Werk referred to Section 59-917 where a legislator becomes wholly incapacitated. Section 67-412 implies that a legislator has the capacity to select someone to succeed them in office for an undetermined amount of time and then verify that person themselves. Is there another procedure in case of a long-term replacement? **Senator Nonini** answered that there is another code section that deals with a replacement. When legislators are elected, they must submit a list for replacements to the Secretary of State's office, and that office will certify that they are qualified. This bill is for a substitute for a short period of time.

MOTION: **Senator Fulcher** moved to send **S 1370** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion.

Senator Davis asked about references to a phone call from the Idaho Supreme Court at both the print hearing and the hearing today. Who called? Who did they call? As far as he knows, Senator Davis has never heard of the Idaho Supreme Court pro-actively engaging in that manner. **Senator Nonini** said that information was given to him by Brooke Brouman in Legislative Services. **Senator Nonini** said that he was told the question was: "where in code is it laid out how a replacement is picked by a legislator?"

Senator Hill referred back to the "separation of powers." Why is that a concern? If there is a permanent vacancy in the Legislature, recommendations are made and the Governor makes that appointment. Why would the appointment of a temporary replacement be a greater threat to the separation of power? **Senator Nonini** explained that Ms. Brouman suggested that, because there would be a temporary substitute and not a permanent replacement, there should be new language so there wasn't the ability by the executive branch to name a temporary substitute. **Senator Hill** asked if she thought it was alright that the Governor should appoint a permanent replacement but not a temporary substitute; is that correct? **Senator Nonini** concurred.

**SUBSTITUTE
MOTION:**

Senator Davis said he wants to vote for Section 2, but not for Section 1. **Senator Davis** moved to send **S 1370** to the 14th Order for possible amendment. **Senator Werk** seconded the motion. The substitute motion carried by **voice vote**.

SJR 106

Proposing and Amendment to the Constitution to Allow the Legislature to Reconvene in a Special Session to Consider Bills Vetoed by the Governor Following the Adjournment of the Regular Session; presented by Senator Vick.

Senator Vick explained that currently, the Legislature has the ability to override the Governor's veto during the session, but the Legislature does not have the ability to address any bill that is vetoed after the session has ended. This amendment gives the Legislature that ability. Idaho is one of seven states that does not have a mechanism in place to override a veto once a session is adjourned. **Senator Vick** read the one addition to existing code that set forth the requirements to reconvene the Legislature. He then read the section from the Idaho Constitution that explained the separation of powers between the legislative, executive and judicial branches. The language in this bill allowing the Legislature to call a special session is not unique to Idaho. **SJR 106** was written in a way that would eliminate the need for more than one amendment to be put on the ballot.

Senator Stennett asked why other states are held to stricter standards than this bill sets out. **Senator Vick** responded that by specifying the ability to call a special session and the way it is called, it becomes more than one subject.

Senator Werk inquired about who made the determination about what was a single subject or what constituted multiple subjects. **Senator Vick** said that information came from the Attorney General's (AG) office but is not in writing.

MOTION:

Senator Winder stated his approval of the approach and noted that they do have the ability to add constraints if it is passed by the citizens of Idaho. **Senator Winder** moved to send **SJR 106** to the floor with a **do pass** recommendation. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

S 1369

Relating to County Officers to Eliminate a Conflict of Interest for County Prosecutors and in Certain Cases Moves the Misconduct Authority to the Attorney General (AG); presented by Senator Rice.

Senator Rice stated that a similar bill was passed last year, but the AG did not have the resources at that time to carry out the additional responsibilities. This year the Finance Committee has approved additional funding for that budget. The problem **S 1369** addresses is one where the AG may need to assume the responsibility for a case when a local prosecutor is not pursuing it effectively. If a county elected official, including the prosecutor, violates State law, the only person that can intercede is the county prosecutor. There are instances when that may not happen. This bill will move the misconduct authority to the AG. The county prosecutors have been involved in drafting this legislation as well as the AG's office.

Senator Winder asked if the Governor was included in the conversations. **Senator Rice** stated that this bill follows the instructions in the Governor's veto letter from last year's bill.

Senator Werk clarified that all preliminary investigations of any allegation against an elected official will be conducted by the AG's office. **Senator Rice** agreed.

MOTION: **Senator Winder** moved to send **S 1369** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

SJR 103 Proposing an Amendment to the Constitution Relating to Persons Subject to Military Duty to Provide that All Able Body Persons Would be Subject to Military Duty; presented by Senator Rice.

Senator Rice addressed the concerns raised at the print hearing and the concerns in the letter from the AG's office. That letter was talking about organized militia while this bill is referring to unorganized militia. After conversations with the AG's office, it was agreed to add the word "unorganized" in Section 1, line 15, before the word militia at the beginning of that line. This provision would then read consistently with the U.S. Supreme Court's interpretation of the U.S. Constitution's Second Amendment. **Senator Rice** requested that **SJR 103** be sent to the 14th Order for amendment.

Senator Davis noted that Rule 36 would be the controlling rule which would allow amendment.

MOTION: **Senator Fulcher** moved to send **SJR 103** to the 14th Order for possible amendment. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman McKenzie** announced that there would be a meeting on Friday. There being no further business, **Chairman McKenzie** adjourned the meeting at 8:57 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #2
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 07, 2014

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT: RS23070	GUBERNATORIAL APPOINTMENT of Daniel Kunz to the Idaho Energy Resources Authority. A SENATE CONCURRENT RESOLUTION Urging Idaho Residents to Protect Themselves about the Risks and Symptoms of Carbon Monoxide Poisoning and by Installing Carbon Monoxide Detectors in Their Homes.	Daniel Kunz Senator Martin
H 400	RELATING TO HORSE RACING to Increase the Fiscal Year-End Balance in Order to have Sufficient Funds to Operate for at Least One Year Without Additional Revenue.	Frank Lamb, Executive Director, Idaho Racing Commission
H 443	RELATING TO ELECTIONS to Address Procedural Issues in Various Sections of the Idaho Code that were Discovered During Recent Elections.	Tim Hurst, Secretary of State's Office
H 508	RELATING TO UNCLAIMED PROPERTY to Revise the Requirement of a Notice of Escheatment and to Establish Outreach Provisions.	Cozette Walters, Treasurer's Office
RS23095	RELATING TO SALARIES OF STATE ELECTIVE OFFICERS to Set the Compensation for the State Elected Officers.	Senator Davis
RS23099	RELATING TO SALARIES OF JUDGES to Adjust Judicial Salaries and Increases within the Judiciary.	Senator Davis
RS23081	A SENATE CONCURRENT RESOLUTION to Recognize and Commend Hilary Knight for Her Achievements at the 2014 Winter Olympic Games.	Senator Stennett
MINUTES:	Minutes of January 30th	Senators Lodge and Werk

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 07, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 8:01 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENT: The Gubernatorial Appointment of Daniel Kunz to the Idaho Energy Resources Authority (Authority).

Chairman McKenzie introduced Daniel Kunz who is filling the position previously held by Ralph Williams. He asked Mr. Kunz to provide some background and described his role on the Authority.

Mr. Kunz said he has attended two in-person meetings and at least two phone meetings during discussions on the Letter of Intent with Bonneville Power for future opportunities to finance projects regarding transmission in and out of Idaho. He stated he founded U.S. Geothermal (USG) and saw that company through its initial stages in 2000-2002. USG went public in 2004 resulting in funding of about \$300 Million to put USG into the business of making electricity. This project included developing transmission agreements, power purchase agreements, building and construction permitting and financing. USG is currently producing electricity from three facilities: Raft River, Idaho; Vale, Oregon, which is in Idaho Power territory; and one close to Reno, Nevada. **Mr. Kunz** was asked to join the Authority and he agreed.

Senator Davis asked if Mr. Kunz has identified any gaps that the State should help fill. **Mr. Kunz** stated he can't make that kind of an assessment yet. However, the State can be proud of the directors that currently reside at the Authority.

Senator Davis asked if Mr. Kunz has had a chance to review the Idaho Energy Plan and, if so, what are his observations. **Mr. Kunz** said he has been involved with the plan through USG. It is a good plan with policies that help the State develop its energy resources. **Senator Davis** asked if Idaho is implementing the principles of that plan. **Mr. Kunz** responded it was early for him to make that assessment but he didn't think the drivers, like Idaho Power, will let it be shelved.

Senator Werk ask if Mr. Kunz had a view on rooftop solar systems and net metering, and if the Authority had any role in those discussions. **Mr. Kunz** admitted that he didn't have a very detailed knowledge of solar yet. He stated his own views on the long term benefits of renewable energy. They are more costly up front, but over time, they completely erase the volatility of energy pricing, particularly as it relates to natural gas. Solar rooftop installations help provide a fixed energy source.

Chairman McKenzie thanked Mr. Kunz for his assistance when the Interim Energy Committee toured the USG facility at Vale. He noted that voting would be at the next Committee meeting.

RS 23070

A Senate Concurrent Resolution Urging Idaho Residents to Protect Themselves about the Risks and Symptoms of Carbon Monoxide Poisoning and by Installing Carbon Monoxide Detectors in Their Homes; presented by Senator Martin.

Senator Martin explained that the genesis of **RS 23070** was a tragic incident for the Bill Parrish family who resided in Pocatello. He gave a brief overview of his connection with this family. **Senator Martin** introduced Alan and Jan Parrish-Frew. Mr. Frew works for the Idaho Department of Transportation, and Jan Parrish-Frew is an architect and was the Executive Project Manager for the renovation of the Idaho State Capitol. **Senator Martin** yielded his time to the Parrish-Frew family. **Mrs. Parrish-Frew** introduced Bill Parrish's Mother, Becky Robinson. **Ms. Robinson** read a story written by a cousin; "Is a Life Worth \$50." (see attachment a)

MOTION:

Senator Davis, in memory of the Parrish family, moved to send **RS 23070** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

H 400

Relating to Horse Racing to Increase the Fiscal Year-End Balance in Order to have Sufficient Funds to Operate for at Least One Year Without Additional Revenue; presented by Frank Lamb, Executive Director, Idaho Racing Commission (Commission).

Mr. Lamb said that the Commission is totally self-funded by a percentage of the wagering income and license fees; it receives no General Fund appropriations. **Mr. Lamb** gave a brief financial history and explained why they were asking to increase the ceiling on their account balance. There was a decrease in funding due to the lack of racing at Idaho's major race track, Les Bois Park. As a result, staff was reduced, thus diminishing the ability to regulate; especially in the area of drug testing. It is not anticipated that the same situation will reoccur, but it is important to be prepared. By raising the ceiling from \$400,000 to \$600,000, it will allow the Commission to operated for one to one and one-half years. This is not asking for an increase in budget. As an example of increased costs, a drug test was \$18 when the ceiling was established 20 years ago; now it is \$65 and soon will be \$75. The stakeholders have participated in this proposal and have no opposition to it.

MOTION:

Senator Werk moved to send **H 400** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Lodge**. The motion carried by **voice vote**.

H 443

Relating to Elections to Address Procedural Issues in Various Sections of the Idaho Code that were Discovered During Recent Elections; presented by Tim Hurst, Secretary of State's Office.

Mr. Hurst stated that **H 443** deals with issues regarding election consolidation.

- It outlines the process to disseminate information from the State Board of Education to the school district and county clerk when there is a change in school zones.
- It makes the recreation districts' timing for write-in candidates consistent with other taxing districts; 45 days instead of 25 days.
- It removes a conflict between § 34-106 and § 34-1404 in setting the final date for certifying the language for a ballot question .
- It allows a county to request a modification on election procedures in a taxing district election allowing changes in methodology to fit a precinct or taxing district.

- It prohibits a candidate from running for more than one city council seat at the same time.
- It removes the requirement that the city council has to "accept" the results of the election, but that they just have to receive them and print them.

Senator Davis talked about Section 4 of the bill, which is the election procedures section. Is the modification only for a certain election cycle or is it ongoing? Mr. Hurst said they interpret that as one time but Title 34 also gives the Secretary of State the power to interpret the law consistently throughout the State. **Senator Davis** asked that clarification be part of a future bill.

MOTION: **Senator Davis** moved to send **H 443** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

H 508 Relating to Unclaimed Property to Revise the Requirement of a Notice of Escheatment and to Establish Outreach Provisions; presented by Cozette Walters, Administrator of Unclaimed Property, Treasurer's Office.

Ms. Walters provided an overview of how unclaimed property becomes unclaimed and what it includes and does not include. The property is acquired from businesses like banks, utility companies, medical offices and insurance companies. They are required to turn that money over to the last state of address. Currently, the State is holding over \$120 million as of November, 2013. That information is made available to the citizens through a variety of ways; the website, advertising in newspapers, attending conferences and various outreach programs. **H 508** strikes language regarding escheatment that is no longer necessary due to some 2012 legislation modifying the escheatment provisions. It also clarifies that the Treasurer's office can continue to conduct public outreach efforts and education programs regarding unclaimed property. This is not a bill to increase budget; it is a clean up and clarification bill.

MOTION: **Senator Davis** moved to send **H 508** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

RS 23099 Relating to State Elected Officials to Set the Compensation for the State Elected Officers; presented by Senator Davis.

Senator Davis stated that every four years the Legislature has the authority to review the compensation that is paid to various statewide elected officials or constitutional officers. Article V, Section XVII specifically refers to the judiciary and also includes language for payment of the constitutional officers. Salaries are set before the beginning of a term and that amount will be in effect for the following four years. This legislation allows for a two and one-half percent increase for each of the next succeeding four years with a total fiscal impact of \$86,627.

Senator Davis explained that there are two changes other than the historic percentage changes. The first modification is that the Lieutenant Governor would change from 30 percent to 35 percent. Additionally, the Attorney General would be decoupled from the percentage of the Governor, and instead, would be associated with the compensation paid to a district court judge. This is a message to practitioners that if they are looking at a district court judge position, there is also a position of equal financial stature in the office of the Attorney General. The fiscal year difference will be larger in 2015 because the Attorney General will be fixed as of the end of the year (see attachment b).

MOTION: **Senator Fulcher** moved to send **RS 23099** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

- RS 23095** Relating to Salaries of Judges to Adjust Judicial Salaries and Increases within the Judiciary; presented by Senator Davis.
- Senator Davis** stated that the constitutional language is similar and dissimilar in both language and interpretation. Article V, Section XXVII and Article V, Section XVII of the Idaho Constitution must be looked at in concert with one another. They are not bound by the same commencement of the term type language and they can, and historically have, provided for interim increases in compensation. That is practical because judges do not all run at the same time like constitutional officers. Currently, there is a very serious compression in compensation. The total fiscal impact of this proposal is just over \$1.1 million. **Senator Davis** explained the breakdown in the compensation (see attachment c). Special attention was given to the increase for district judges in order to attract a more robust list of applicants. The idea is to provide a better pattern going forward with a strong percentage gap. Three significant investments are being made in the judiciary this year: First, the Judge's Retirement Fund transfers to PERSI; second, are changes in compensation as contemplated in this RS; and third, are the investments in technology that the court desperately needs.
- MOTION:** **Senator Werk** moved to send **RS 23095** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.
- Senator Davis** asked that Representative Moyle be added to the Statement of Purpose for **RS 23095** and **RS 23099**.
- RS 23081** A Senate Concurrent Resolution to Recognize and Commend Hilary Knight for Her Achievements at the 2014 Winter Olympic Games; presented by Senator Stennett.
- Senator Stennett** stated that this a resolution to honor Hilary Knight, from Sun Valley, for her silver medal as a player on the Women's Hockey Team, at the 2014 Olympic Games in Sochi, Russia. Ms. Knight was honored in 2011 in Sun Valley for her contribution to the Women's Ice Hockey International Competition. Ms. Knight began playing hockey at the age of five and moved around various states with her family as she continued to pursue that sport throughout her childhood. Ms. Knight also took skating lessons and participated in other sports. She continues with hobbies in tennis, mountain biking and skiing. A friend of the family was an ice hockey coach and encourage Ms. Knight and her brothers to take up the sport. They were skiers before they learned to skate. At the age of five, Ms. Knight told her grandmother that she would play at the Olympic Winter Games. Her philosophy is "I dream, I will it, I'm passionate, I'm determined and I dare to be whatever I choose to be." Ms. Knight's degree is from the University of Wisconsin. She received the Jeff Sauer Award for the most dedicated player for the 2011-2012 season. She was named the Captain of the Badgers during her Senior year at the University of Wisconsin. In January of 2011, she scored her 90th goal for the Badgers to become the All Star leading goal scorer at the University of Wisconsin in women's hockey history.
- MOTION:** **Senator Werk** moved to send **RS 23081** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.
- MINUTES:** **Senator Lodge** moved to accept the Minutes of January 30, 2014. **Senator Werk** seconded the motion. The motion carried by **voice vote**.
- ADJOURNED:** **Chairman McKenzie** thanked the Committee and there being no further business, adjourned the meeting at 8:58 a.m.

Senator McKenzie, Chair

Twyla Melton, Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 10, 2014

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT:	VOTE ON GUBERNATORIAL APPOINTMENT OF Daniel Kunz to the Idaho Energy Resources Authority.	
GUBERNATORIAL APPOINTMENTS:	GUBERNATORIAL APPOINTMENT of Jackie R. Flowers to the Idaho Energy Resources Authority.	Jackie R. Flowers
	GUBERNATORIAL REAPPOINTMENT of Dennis P. Duehren to the Bingo-Raffle Advisory Board.	Dennis P. Duehren (phone)
	GUBERNATORIAL REAPPOINTMENT OF Wendy W. C. Diessner to the Bingo-Raffle Advisory Board.	Wendy Diessner (phone)
H 515	RELATING TO BEER to Set Requirements for Beer Tasting and such Requirements will Align Beer Tasting Events with the Current Idaho Statute Authorizing Wine Tasting Events.	Representative Eskridge
H 514	RELATING TO CONCEALED WEAPONS LICENSES to Require a License in Order for an Elected Official to Carry a Concealed Weapon.	Senator Hagedorn
H 478	RELATING TO THE IDAHO STATE LOTTERY to Continue Providing State Lottery Proceeds set Forth in the Bond Levy Equalization Program by Removing the Sunset.	Jason Hancock, Dep. Chief of Staff, Board and Department of Education
RS23057	A SENATE CONCURRENT RESOLUTION Stating Legislative Findings and Approving Administrative Rules that Impose a Fee or Charge.	Dennis Stevenson, Administrative Rules Coordinator
RS23058	A SENATE CONCURRENT RESOLUTION Stating Legislative Findings and Approving and Extending Temporary Rules Reviewed by the Legislature.	Dennis Stevenson, Administrative Rules Coordinator

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 10, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 8:03 a.m. with a quorum present and called for a motion on the gubernatorial appointment before the Committee.

VOTE ON GUBERNATORIAL APPOINTMENT: Vote on the Gubernatorial Appointment of Daniel Kunz to the Idaho Energy Resources Authority.

Senator Siddoway moved to send the gubernatorial appointment of **Daniel Kunz** to the Idaho Energy Resources Authority to the floor with the recommendation that he be confirmed by the Senate. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENTS: Gubernatorial Appointment of Jackie R. Flowers to the Idaho Energy Resources Authority (IERA).

Ms. Flowers, General Manager, Idaho Falls Power, noted that she had appeared before the Committee earlier this year with the Idaho Strategic Energy Alliance. She is honored to have received an invitation to join the high caliber group of professionals that have diverse backgrounds and expertise. **Ms. Flowers** stated that her perspective will add that of a utility manager and, in particular, a public power manager in Idaho. She understands the importance of the Idaho Energy Resources Act (Act), specifically the financing mechanism that has been established to help secure generation and transmission needs in Idaho.

Chairman McKenzie asked if Ms. Flowers had worked with the IERA on projects and, if so, on what kind of projects. **Ms. Flowers** responded that they have worked with the IERA on financing related to the Horse Butte Wind project. Idaho Falls Power is a participant in that project.

Senator Davis asked if Ms. Flowers had noticed statutory gaps where the Idaho Legislature should assist the IERA. **Ms. Flowers** stated that she hasn't identified specific gaps. Conversations have been started with the Bonneville Power Administration related to transmission needs. **Senator Davis** asked if there are areas in the Idaho Energy Plan (Plan) where implementation could be more progressive. **Ms. Flowers** responded that the plan is brought before the Legislature every two years to be updated. **Senator Davis** recounted Ms. Flowers qualifications and training and asked, from her perspective, does our country need, over the next 20 years, a significant, dynamic change in the way power is generated and distributed. Is Idaho pursuing the most likely path to affordable production and distribution? **Ms. Flowers** replied that the regulatory

climate is driving tremendous changes within the industry, particularly in how power is generated.

There will be a significant impact to supply sources and transmission constraints. Idaho is an importer of energy and must rely on other states to continue to promote development of generation resources. However, Idaho has an amazing hydropower resource portfolio. Idaho needs to contemplate on how to continue the development of resources within the State to alleviate transmission constraints to control economic development and energy security.

Senator Werk inquired about the need for change in Idaho's energy portfolio because of increased costs and the fluctuation in prices. **Ms. Flowers** answered that a diverse portfolio is the key to minimizing risk and exposure in any one area. All generation resources have their pros and cons. It would behoove Idaho to explore a variety of generation resources to reduce the risk of one particular exposure.

Senator Siddoway asked for solutions for Idaho Falls Power and the transmission problems that have occurred over the last five years. **Ms. Flowers** replied that she is very familiar with the transmission needs in Idaho and the attempts to expand the transmission infrastructure. The Idaho Falls Power approach has been to avoid any kind of condemnation. About half of the route has been acquired in terms of right-of-way acquisition. One of the first agreements was with the Bureau of Reclamation. **Senator Siddoway** asked for a timeline to have the transmission system in place. **Ms. Flowers** said that they are about half way through the ten year time frame.

Gubernatorial Reappointment of Dennis P. Duehren to the Bingo-Raffle Advisory Board (Board). NOTE: Phone Interview

Chairman McKenzie welcomed Mr. Duehren and asked for his perspective on serving on the Board, especially from the position of having run a Bingo for the Rotary in Montpelier.

Mr. Duehren explained that they have a small bingo club that accommodates about 20 players once a week. When he assumed that responsibility, he had no training, nor had he read the code. When he began serving on the Board and meeting other people, he realized there were state laws and rules that applied and that he should know them. There are various operations among those serving on the Board and their experiences are shared.

Gubernatorial Reappointment of Wendy W. C. Diessner to the Bingo-Raffle Advisory Board. (Phone Interview)

Chairman McKenzie asked for a brief perspective from having served on the Board as well as running Bingo at the YWCA in Lewiston.

Ms. Diessner has been running Bingo at the YWCA for almost 20 years. She became involved with the Board very early because she felt it was important that non profits adhered to certain standards and regulations when running games. It is important for Board members to monitor and encourage startup games. Non profits have been damaged by starting up games without having the right information or the right abilities to back the game and carry it through.

Senator Siddoway asked how much time is spent working on the Board. Is the Board's role to inform people about setting up and running Bingo games or is it more enforcement? **Ms. Diessner** said time spent depends on what the Board is doing. Normally, they meet by phone, one hour per quarter. They generally have some investigations that may take five or six hours a quarter. There is no enforcement, that is the Lottery Commission. Advising startups takes more time.

Senator Siddoway asked if there are known "rascals" that try to take advantage of the opportunities available in the game of Bingo. **Ms. Diessner** said most problems arise from ignorance. In their area, the games are very small.

H 515

Relating to Beer to Set Requirements for Beer Tasting and such Requirements will Align Beer Tasting Events with the Current Idaho Statute Authorizing Wine Tasting Events; presented by Representative Eskridge.

Representative Eskridge explained that **H 515** allows for a brewery, wholesaler or distributor or retail beer licensee to conduct a beer sample tasting event on premises not licensed for the sale of beer by the individual glass or open bottle and is the same as the legislation passed for wine for similar purposes under Idaho Code § 23-1325 (c). **Representative Eskridge** read through the bill outlining the criteria needed to hold a beer tasting event. Small producers connecting directly with the consumers is very important to the success of these small businesses in competing with the larger, national producers. These small breweries are becoming a significant industry providing increased employment and enhancing the state economy. Beer tasting will assist in growing this industry.

Chairman McKenzie called Shiela Francis to testify, and then Jeremy Pisca.

Ms. Francis, President, Idaho Brewers United, is representing all craft brewers in the State of Idaho. They are in support of **H 515**. It is important to get products to people for sampling before they commit to buying.

Mr. Pisca, Attorney with Risch Pisca Law Firm and Executive Director for the Idaho Beer & Wine Association, supports this legislation. **H 515** is patterned after the wine tasting statute that has been in place since 2004. There have been no incidents or problems with that statute. There has been a large diversification in products in beer markets; each with their unique characteristics. Trying out the different brands helps the consumer to make a selection.

MOTION:

Senator Werk moved to send **H 515** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 514

Relating to Concealed Weapons Licenses to Require a License in Order for an Elected Official to Carry a Concealed Weapon; presented by Senator Hagedorn.

Senator Hagedorn said that **H 514** removes the special treatment that elected officials have to automatically carry a concealed weapon. It also clarifies how to carry a weapon in a vehicle. This has been an ongoing concern for hunters. The language on page 4, lines 35-40 states when and how weapons may be carried in a vehicle. Subsection (12) (a) identifies who law officials are in a city, county or state and that they are exempt. Also, any person outside the limits of a city is exempt from having a concealed weapons permit. This bill is supported by the Sheriffs Association, a number of pro Second Amendment groups and the National Rifle Association.

Senator Davis asked who the "concealed weapons license" applies to as it appears on page 4, line 37. **Senator Hagedorn** believes that the term license and permit is used interchangeably. The Attorney General (AG) would have to determine the reciprocity question. **Senator Davis** gave an example of the way he interprets Senator Hagedorn's understanding of Subsection (9). If Senator Davis has a concealed license or permit from another state, he is driving from that state into Idaho, he has less than an enhanced permit, and he has a firearm and it is not in plain view, but it is in his car, does Subsection (9) apply? That is, would he get the benefit of the exception to this criminal act. **Senator Hagedorn** answered "yes." **Senator Davis** went to page 5, Subsection (12) that states who can carry without the necessity of having a concealed weapons license or permit. Subsection (12) (e) is the primary target of the legislation. Subsection (12) (a), includes Law enforcement officials of the United States. **Senator Davis** interprets

that to mean federal officials. So a sheriff of a county in Wyoming would not necessarily get the benefit of Subsection (12) (a) when it says "United States"; is that correct? **Senator Hagedorn** agrees. **Senator Davis** said that "peace officers" is intended to apply more broadly than just a federal police officer; is that right? **Senator Hagedorn** agreed. **Senator Davis** referred to line 5, page 5. The conjunctive "or" any officer of an express company on duty. What does that mean? **Senator Hagedorn** responded that an express company would be like Brinks or an armored company; a company that delivers high valued materials. He didn't know if it was a defined term.

Senator Davis referred to Subsection (12) (d), lines 12-14 which strikes a phrase that has been very controversial in the past. Striking that phrase in this bill has not raised any comments. Why? **Senator Hagedorn** said that striking this language, along with the changes that have been made on page 4 defining how one can carry a weapon in a vehicle is what reduced the contention. How to properly carry firearms in a vehicle when going out into the field has always been a problem and this bill fixes that.

Senator Fulcher asked how long exempting elected officials has been in statute. Have there been any problems that have arisen over the current language for elected officials; any crimes, any accidental discharge, or anything of that nature. **Senator Hagedorn** said that there have been incidences where elected officials have found themselves in situations of carrying a concealed weapon where they shouldn't, such as an airport. The training to obtain a concealed weapons permit would have clearly let those folks know when and how they could carry. **Senator Hagedorn** said that elected officials should follow the same rules as the citizens that legislators are writing the statutes for.

Senator Winder asked for a definition of unloaded and if it was in the bill. **Senator Hagedorn** answered that unloaded means ammunition not in the chamber of a weapon; it can be in a magazine but not in the chamber. It is defined in Title 18, but he can't say where.

Senator Siddoway requested the timeline to get a concealed weapons permit. **Senator Hagedorn** responded that a standard concealed weapons permit typically takes about three to four hours of class time, time at the local sheriff's office to fill out security documents and be fingerprinted. The background check takes about six weeks from the time application is made after training. A member of the military can use the DE214 card. The enhanced permit takes an eight hour class with live fire, and there are no substitutions for that training. **Senator Siddoway** stated his concern with requiring a concealed weapons permit for an elected official. He gave an example of what may happen in case of a contentious incident. A gun in his pocket would provide a sense of security. He appreciates what is being done in other parts of the bill, but this part makes no sense. **Senator Hagedorn** answered that he understands the concern and understands there are times when an elected official feels threatened. Getting a concealed weapons permit isn't that onerous. Some sheriffs give special considerations for elected officials. Education on how and where to carry is critical; the ramifications of not knowing are great. **Senator Siddoway** conceded that he has a problem with having any license to carry a gun. How do we rationalize that? **Senator Hagedorn** said that they grew up in a time when guns were always around and they were taught how to use them safely. Times have changed. There are a couple of generations that have not grown up like that. The only thing good about a license is the education requirement.

Senator Winder asked if we know how many enhanced carry permits have been issued since the law went into effect last July. **Senator Hagedorn** believes there are about 1,130 - 1,140.

Senator Fulcher agrees with some of the concerns Senator Siddoway has. The exclusion for elected officials has been in place since 1906. **Senator Fulcher** didn't see a problem to solve. We are visible. We sit in a building that is mostly unsecured. We make public decisions in a public way like never before. He has walked out of this Committee room and been threatened and has had his life threatened multiple times. This is how we lose our privileges and liberties, we give them back. Some of the things in the bill are good; some need clarification. Would you consider an amendment process to keep some of the components that we may agree on, but maintain some of the privileges for elected officials that we currently enjoy. **Senator Hagedorn** answered that it is a privilege, but we should not have any privileges in this matter above and beyond what the citizens of the State have. Would he like to have no license requirements; yes. Because of the level of education that exists within the population, he cannot support that. It would be dangerous. He has been in similar threatening situations and he took the time to get a concealed weapons permit before he got into the Legislature. **Senator Fulcher** said he is sensitive to the political correctness of having privileges that others do not have, but there has never been a threat in his life such as there has been in the last nine plus years sitting in this body.

Senator Davis referred to page 4, line 35-36. A firearm may be carried concealed in a motor vehicle by a person and striking the word legally. The courts are going to say the Legislature intends it to be a different public policy. Does carry concealed mean that the firearm actually has to be on a person? **Senator Hagedorn** said he doesn't believe that it does. However, it does change the intention. The intention is that having a weapon in a motor vehicle in general where anyone can drive that vehicle was not the intention when this was written. But now, if someone drives a vehicle not knowing a firearm is in the vehicle, the person who put the firearm in the vehicle is accountable for that firearm.

Senator Davis pointed to the next sentence that says he can put a concealed weapon in the car if it is unloaded or disassembled without a problem if he doesn't have a concealed weapons permit. If he has a permit and he puts a loaded firearm under a seat in his car, loans that car to another who does not have a license and who is unaware that the firearm is there; is there a problem? **Senator Hagedorn** said that you don't have a problem, the driver of that vehicle has the problem because you didn't manage your weapon responsibly. **Senator Davis** asked if he has a concealed weapons permit and puts a loaded gun in his luggage in the trunk of his vehicle, is he carrying concealed. **Senator Hagedorn** suggested that the courts will define carried. Should an officer go through the luggage and find a loaded weapon, there would have to be a discussion at that point. He is not versed well enough to make that kind of decision.

Senator Hill asked what practical changes are being made. **Senator Hagedorn** stated that the practical changes are to define very clearly for people who don't have a concealed weapons permit, how they can carry a firearm in their car outside the city limits and when going back and forth to the field because currently, that is not well defined. **Senator Hill** restated that the intent is not to make changes, the purpose of this section is to clarify how and when to carry.

Senator Lodge referred to page 5, line 3. What does "Law enforcement officials of the United States" mean? **Senator Hagedorn** answered that, in his opinion, it would mean FBI, judges, security people, DEA, etc. **Senator Lodge** asked if we are giving them a benefit that Idaho elected officials will not have. She stated that she has had training from the U.S. Marshals, they don't have a class for the general public which is required in Subsection (13) (c). Would that training be acceptable? **Senator Hagedorn** responded that she would have to discuss that with the Canyon County Sheriff. **Senator Lodge** stated that she is concerned

with the language in this bill although it is politically correct. She also agrees that they have Second Amendment rights to carry firearms and should be able to do that if they are a law abiding citizen. **Senator Hagedorn** said he understands her concerns, that is why he has a concealed weapons permit. This has nothing to do with political correctness, it has everything to do with preparation. We are our own first responders and we should be prepared.

Senator Stennett is disturbed by the definition of "confines of any city" because of the definition of city and all of the different sizes and legalities of a "city." Can you define city? **Senator Hagedorn** said he could not. **Senator Stennett** asked for the definition of "in plain view." **Senator Hagedorn** answered that "plain view" means plain view; nothing covering it. The intention is, if a law enforcement officer walks up to a vehicle, the firearm can be seen in plain view.

Senator Fulcher asked if "any person" on line 20 could include a convicted felon. **Senator Hagedorn** said that is existing language so that determination has been made by the courts. **Senator Davis** said that there are specific exceptions that restrict the rights of a convicted felon. **Chairman McKenzie** added that this section does not expand what is lawfully allowed and there are specific provisions in code that relate to felons.

MOTION: **Senator Davis** moved to send **H 514** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion.

SUBSTITUTE MOTION: **Senator Siddoway** made a substitute motion to hold **H 514** in Committee. **Senator Lodge** seconded the motion.

Senator Lodge stated that she had several concerns that could be corrected.

Senator Siddoway stated his concern that we are giving up our liberties and supports the substitute motion.

Senator Davis compared the 1899 Constitutional Convention language of Article I, Section XI to the current 1978 language. He explained the changes that occurred in 1978 and the specific provisions dealing with concealed weapons and regulating the issuance of concealed weapons permits. The process belongs to the Legislature. He will vote against the substitute motion because the language on page 4 helps solve real, practical problems that exist. **Senator Davis** also explained his views on other sections of the bill. He stated that he has not had the gun training others have had, and he would benefit by being asked to get appropriate training instead of an additional right because of holding an elected office.

Senator Fulcher noted that there are parts of the bill that are okay. He understands the argument of an elected official being under the same laws as other citizens. There is a defensible difference in this case. The majority of the citizenry does not put themselves in the same set of circumstances as an elected official. His vote will not be to give up the privilege that predecessors have granted.

Senator Davis gave a scenario that asked why a citizen at risk who is required to have a permit was any less important than an elected official who was not. **Senator Fulcher** responded with a similar scenario to substantiate his position.

Senator Siddoway returned to his original statement that there shouldn't be a requirement for a license at all.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman McKenzie** called for a **roll call vote** on the substitute motion to hold **H 514** in Committee. **Senators McKenzie, Fulcher, Lodge, Siddoway, Stennett** and **Werk** voted **aye**. **Senators Davis** and **Hill** voted **nay**. Senator Winder was excused. The motion carried.

H 478

Relating to the Idaho State Lottery to Continue Providing State Lottery Proceeds set Forth in the Bond Levy Equalization Program by Removing the Sunset; presented by Jason Hancock, Deputy Chief of Staff, Board and Department of Education.

Mr. Hancock said that this legislation is taking the sunset off the provisions on how we fund bond level equalization. One-quarter of the state lottery revenues go toward school districts to assist in repaying their bonded indebtedness.

Senator Werk questioned the striking of § 67-7434 (1) and wanted clarification.

Mr. Hancock responded that there has been language in effect since July 1, 2009, that created a different split of those revenues. It gives three-eighths to the Permanent Building Fund, three-eighths to public school buildings and one-quarter to bond levy equalization.

MOTION:

Senator Lodge moved to send **H 478** to the floor with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 23057

A Senate Concurrent Resolution Stating Legislative Findings and Approving Administrative Rules that Impose a Fee or Charge; presented by Dennis Stevenson, Administrative Rules Coordinator.

RS 23058

A Senate Concurrent Resolution Stating Legislative Findings and Approving and Extending Temporary Rules Reviewed by the Legislature; presented by Dennis Stevenson, Administrative Rules Coordinator.

MOTION:

Senator Fulcher moved to send **RS 23057** and **RS 23058** to print. **Senator Davis** seconded the motion.

Senator Davis asked Mr. Stevenson to explain a change found on lines 22-23 of **RS 23057**. **Mr. Stevenson** explained that change has to do with the effective dates of the pending fee rules. Anytime a pending rule requests a date other than the adoption date of the resolution, it must be specified in the resolution, otherwise the effective date of the pending rule would default back to the adoption date.

Senator Werk expressed his appreciation for the work Mr. Stevenson does, it is a great service.

VOTE:

The motion carried by **voice vote**

ADJOURNED:

There being no further business, **Chairman McKenzie** adjourned the meeting at 9:53 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 12, 2014

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENTS:	The Gubernatorial Appointment of Jackie R. Flowers to the Idaho Energy Resources Authority. The Gubernatorial Reappointment of Dennis P. Duehren to the Bingo-Raffle Advisory Board. The Gubernatorial Reappointment of Wendy W. C. Diessner to the Bingo-Raffle Advisory Board.	
<u>RS23112</u>	A UNANIMOUS CONSENT REQUEST from the Education Committee for a Concurrent Resolution Rejecting Docket No. 08-0202-1306.	
<u>HJR 2</u>	PROPOSING AN AMENDMENT TO THE CONSTITUTION to Empower the Legislature to Delegate Rulemaking Authority to Executive Agencies and to Approve or Reject the Administrative Rules Issued by those Agencies.	Representative Loertscher
<u>H 540</u>	RELATING TO ADMINISTRATIVE RULES to Remove Language Relating to Statements in the Administrative Procedure Act that violates the Principle of Separation of Powers between the Executive and the Legislative Branches.	Representative Loertscher
<u>H 524</u>	RELATING TO BEER to provide that it shall be Unlawful for a Brewer to have any Financial Interest in the Business of a Licensed Dealer or Wholesaler of Beer.	Jeremy Pisca, Idaho Beer and Wine Distributors Association
<u>S 1395</u>	RELATING TO SALARIES OF STATE ELECTED OFFICERS to Revise Salaries of State Elective Officers Except for the Attorney General.	Senator Davis

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 12, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 8:08 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENTS: **Senator Siddoway** moved to send the gubernatorial appointment of **Jackie R. Flowers** to the Idaho Energy Resources Authority to the floor with the recommendation that she be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Senator Lodge moved to send the gubernatorial reappointments of **Dennis P. Duehren** and **Wendy W. C. Diessner** to the Bingo-Raffle Advisory Board to the floor with the recommendation that they be confirmed by the Senate. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

RS 23112 A Unanimous Consent Request from the Education Committee for a Concurrent Resolution Rejecting **Docket No. 08-0202-1306**; presented by Senator Goedde.

MOTION: **Senator Winder** moved to send **RS 23112** to print. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

HJR 2 Proposing an Amendment to the Constitution to Empower the Legislature to Delegate Rulemaking Authority to Executive Agencies and to Approve or Reject the Administrative Rules Issued by those Agencies; presented by Representative Loertscher.

Representative Loertscher explained that **HJR 2** is a constitutional amendment to provide that the Legislature has the ability to reject, in part or in whole, agency rules. **Representative Loertscher** said this was put in Idaho statute in 1965 and it has operated for many years. Meade v Arnell was a case brought by an agency against the Legislature that said it doesn't have that authority under the Idaho Constitution. The Legislature won that case and continues to operate under a three to two decision. If that rule process comes under attack in the future, the Legislature would have to make their case all over again. This will ensure that the Legislature has the ability to reject rules set in the Idaho Constitution.

MOTION: **Senator Davis** moved to send **HJR 2** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

Senator Werk asked for an explanation of the last sentence on lines 17-19 and noted that Section X, Article IV is about veto power. **Representative Loertscher** responded that line 27 states the exact meaning: it "shall not require the approval of the governor."

VOTE: The motion carried by **voice vote**

H 540 Relating to the Administrative Rules to Remove Language Relating to Statements in the Administrative Procedure Act that violates the Principle of Separation of Powers between the Executive and the Legislative Branches; presented by Representative Loertscher.

Representative Loertscher said that **H 540** removes the language from the Administrative Procedures Act (APA) that the Legislature can amend or modify a rule. The Legislature was able to amend or modify rules up until 1995 when the then Legislative Services Director pointed out that it could be a problem. Since that time, they have not modified or amended rules. This removes the cloud in the APA so that when the electorate goes to vote on **HJR 2**, that question will not be in their minds.

Senator Hill stated his concern about the wording in the constitutional amendment that says a rule can be rejected "in whole or in part." By rejecting part of a rule, which is done now, under this provision, would it be considered a modification?

Representative Loertscher answered that the Constitution would prevail.

MOTION: **Senator Davis** moved to send **H 540** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

Chairman McKenzie moved **S 1395** before **H 524** in case we lose some of the Committee members. This bill had to be addressed.

S 1395 Relating to Salaries of State Elected Officers to Revise Salaries of State Elective Officers Except for the Attorney General; presented by Senator Davis.

Senator Davis acknowledged that there was a robust conversation on this bill when the RS was before the Committee. At that time, a spreadsheet was provided showing the changes in salaries. There are three parts to the bill:

- There is a two and one-half percent increase for the Governor, the Lt. Governor, and the constitutional officers except for the Attorney General.
- The Attorney General will be tied to the district court judge position.
- The Attorney General will plateau for the four year term.

MOTION: **Senator Hill** moved to send **S 1395** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

H 524 Relating to Beer to provide that it shall be Unlawful for a Brewer to have any Financial Interest in the Business of a Licensed Dealer or Wholesaler of Beer; presented by Jeremy Pisca, Attorney for Risch Pisca Law Firm, and representing the Idaho Beer and Wine Distributors Association (IBWDA).

Mr. Pisca focused his first remarks on what all the concerned parties agree upon:

- They agree that Idaho does have a three-tier system.
- The system has been in place for years and has worked effectively.
- The idea behind the three-tier system was to separate financially, the three tiers so that any one of those tiers wouldn't have the ability to control any one of the other two tiers.
- There are no brewery owned branches in Idaho today.

They are asking for a codification of what the status quo is today in the State of Idaho. The bill closes a loophole. The question is: Why are we bringing this bill? We believe there is a threat. Other states that have not closed this loophole have seen breweries come in and purchase distributorships. We believe now is the time to act while there are no brewery owned branches in Idaho because the consequences could be devastating.

The products being dealt with here are unique. The beverages contain alcohol and those beverages can have social consequences. They are not like other consumer products. They require regulation, and they are the only product that has been the subject of two constitutional amendments. **Mr. Pisca** reviewed information about how the system works and showed a U.S. map that highlighted the distribution of brewery owned branches indicating that the majority of America has already acted to ban branch ownership.

Mr. Pisca explained each part of the bill. Lines 13-18 ban the financial interest between a brewer and a distributor. Lines 19-21 exempt out small brewers; those that brew 30,000 barrels or less annually. Lines 22-34 discuss the five year period where a brewer may service a branch by supporting brand distribution and a financial interest. Lines 35-39 cover a situation where a distributor voluntarily wants out of his contract, a brewery can step in and, for a period of five years, support and provide financial aid. Line 40 states a distributor cannot have a financial interest in a brewery. There is a provision exempting a de minimus interest and there is an emergency clause. This bill does not change contracts. There are no known amendments and, if there are, they would be considered hostile.

Senator Davis stated his understanding that a brewer would have the right to own a distributorship for the limited period of five years if: 1) they can't service the designated sales area; 2) termination, cancellation or discontinuance; 3) failure to renew the distribution agreement; or 4) any reason set forth in § 23-1105. Subpart (1) in § 23-1105 states that it could be: 1) suspension of license; 2) distributor isn't solvent within the definition of the bankruptcy code; 3) a stockholder or partner who owns 10 percent or more of the stock has been convicted of a felony; 4) there has been a transfer of the business without written consent; 5) covers fraud; 6) unpaid bills; 7) transfer infractions; and 8) selling products outside of their territory.

Senator Davis recalled his question from the bill last year and stated that he didn't see the answer in this bill. **Mr. Pisca** referred to line 32 that states, for a period not to exceed five years, they are able to have an unlimited financial interest. Typically, in the case of a failing distributorship, a brewery will appoint their distributor from a neighboring territory to assume responsibility for that distributorship. **Senator Davis** said he wants to see the basis in which they could acquire it. Where does it say that there can be a foreclosure of a lienholder position?

Senator Werk asked for an equivalent of 30,000 barrels. **Mr. Pisca** said all of Idaho's craft brewers combined would not be 30,000 barrels. Idaho's largest brewer is 12,000 barrels a year. That number was picked back in 1994 and has remained the same. **Senator Werk** asked how Subparts (1) and (2) interact together. Subpart (1) has an exemption that does not seem to be in Subpart (2). **Mr. Pisca** explained that in 1994 an exemption from the three-tier system was granted to small brewers. They are able to be their own distributor, they can brew their own beer, and they can have a brew pub or an on or off site retail location. The second part explains how to maintain the three-tier system and bans a financial interest between them, then a distributor can't own a majority interest in a small brewery. If they do, they are no longer independent because they are financially tied to one of the other tiers.

Senator Winder noted that there are principles in this bill that are important. But by maintaining the position on the three-tier system, we must ask about free enterprise. Do distributors feel this is a disadvantage to them for selling and achieving the most value for their businesses? **Mr. Pisca** answered that the IBWDA does not feel that it is unfair. It believes it gives them some security and a higher market value. Knowing that the brewery is not going to be a partner from a financial standpoint gives that business the freedom and independence that it needs to thrive. **Senator Winder** asked what, if other distributors are likely buyers, kind of conditions would exist to prevent a distributor from selling to another distributor. **Mr. Pisca** responded that in certain instances, a brewer may have a contract with a distributor that grants the brewer the right of first refusal. That could result in the devaluation of the business. The brewer always has the ability to approve the buyer of a distributor. There are various strict requirements in place when a distributorship is sold.

Senator Davis said he is looking at this from an Article IX point of view and discussed his viewpoint with the if and then scenarios. The bill last year only focused on the remedy side, or the "then" side. This bill has the "if" side and they are appropriate. However, something is missing. **Senator Davis** said if a brewer advances the money and is the primary financier, is it granted a secured lienholder position and can that position be foreclosed upon. That is not spelled out in the language on lines 25-26. **Mr. Pisca** yielded to Mr. Hayden to answer the question.

Dodds Hayden, Owner and Operator of Hayden Beverage Company, explained that a brewery controls the distribution rights, which are the driving piece of equity in the business. Distribution rights are the heart of the transaction in the sale of a distributorship. **Senator Davis** emphasized that he is talking about the hard money financing to make a sale happen when a brewery takes an Article IX lien hold position in all the tangible and intangible assets of the company, including a lien hold interest in the distribution agreement. Now the brewery forecloses on that security position. He is not seeing the secured transaction right, the Article IX right, to trigger an ownership interest. **Mr. Hayden** said that if the distributor doesn't pay its bill, the brewery can terminate the distribution rights and now has that asset. They can then take that asset and sell it to another distributor to make them whole.

Ken McClure, Attorney with Givens Pursley on behalf of Anheuser-Busch (AB), spoke in opposition of **H 524**. **Mr. McClure** stated that the concerns they had for the bill last year haven't changed, although the bill has changed. AB is concerned about the action to take away from a brewer a legal right it currently has in Idaho. AB has contracts with its distributors that have been negotiated, they are agreements that have significant benefits to both sides, people are depending on the validity of those agreements and there is an investment of substantial sums of money. AB has negotiated away to the distributor, the right to a perpetual contract: It does not renew; it is terminable only under very limited circumstances; and other than those circumstances, it is not terminable. **Mr. McClure itemized** the details of the contract for both the distributor and the brewer. There is a limitation on how to sell beer. As a consequence, AB is very focused on the success of their distributors. They are denied by statute, the right to transfer from one distributor to another. They bargained that away with the acknowledgement that they retained the right of first refusal and also retained the right to own and operate if they wanted to do so. **Mr. McClure** elaborated on the AB corporate policy to own as much of the middle tier as possible; that is categorically untrue. They do operate a global enterprise and in virtually all nations, there are no statutory requirements to sell only through the three-tier system. In those places, they sell the way that makes sense. In the U.S., if they need to, they want the right to step in and protect their brand, market and sales. There have been three transactions in Idaho in the last five years. In each of those cases, AB

approved the transfer with the purchaser. AB has 500 distributors in the U.S.; they own 17 of those distributors. **Mr. McClure** explained why they owned various distributorships, especially in Oregon. **Mr. McClure** talked about the "muscling" by large brewers and said their distributors have no such fears. He went on to debate other arguments set forth by Mr. Pisca.

Mr. McClure stated his desire to have been included in the development of this legislation. Miller Coors was involved and given the opportunity to help shape the legislation. AB made the request but were denied the opportunity. They would prefer that the market be allowed to function and that the bill would be held in Committee. The amendment that they would have presented is not a great deal different than this bill. AB does finance the transition of its distributorships as time and financial circumstances dictate. Most of these operations are small, family owned businesses. When those businesses change owners, AB helps to capitalize that transition. They finance it and take a security interest or, more commonly, a minority ownership interest and can even take a majority ownership which, in any case, will amortize over time. This bill does not permit that. They would have asked for a longer period of time, from five years to eight years. They would have also asked for the ability to have a minority ownership thereafter. It takes longer than five years to amortize out. AB would like the ability to continue as a minority non-controlling partner beyond the expiration of the years in the legislation. It is not clear what public policy reasoning makes that unacceptable. **Mr. McClure** asked that the legislation either be held in Committee or sent to the Amending Order. **Mr. McClure** gave a brief overview of a letter of opposition from Daniel Levine, Chairman, K&L Distributors, Inc. and submitted it to be recorded in the minutes (see attachment a).

Senator Davis referred to the language of termination, cancellation and discontinuance; how do you read this in view of Article IX, and would this language preclude an effective foreclosure of a collateral lien hold position? **Mr. McClure** responded that his understanding is that it would preclude a foreclosure on a security interest through which a brewer that had loaned money for an acquisition would retain its security interest. This allows a brewer to step in: 1) if those provisions have been met for insolvency, fraud, etc. and, 2) if the distributor wants to sell. There is no ability in this legislation for a brewer to foreclose upon an interest without the consent of the distributor. That only deals with the debt. It doesn't deal with the other means of financing, which is equity financing. That is not in the legislation at all. That is a concern. This prevents a brewer from protecting its financial interest either through a debt or equity circumstance.

Senator Hill said that they haven't been operating in the free market under the three-tier system. The arguments you have made could be made against the whole three tier system. Does the three-tier system have value? **Mr. McClure** said that AB is a strong supporter of the three-tier system. It has a great deal of value. It gets quality product serviced to the marketplace, it gets a uniform and efficient distribution system, it provides for a central location for the collection of taxes and it provides an assurance that there will not be a proliferation of illegal distribution. AB has recently spent a lot of money protecting the three-tier system by opposing initiatives in the State of Washington and those pending in the State of Oregon. You are right, this is not a free market system but we are dealing with an alcoholic product. This legislation adds further restrictions to an already limited system. There should be a good reason for doing that, and the proponents of the legislation have not given such a reason.

Senator Hill recalled that AB owned 17 distributorships. How many have been acquired in the last five years? **Mr. McClure** responded that there have been 67 transactions across the U.S. and of those, 25 were in areas where AB had the legal right to acquire; AB acquired 5.

Skip Smyser, Attorney and Consultant for Lobby Idaho, appeared on behalf of Miller Coors. He stated that he did not participate in the Senate last year regarding a similar piece of legislation but became involved once it reached the House and was instrumental in defeating that legislation. The message they heard was to work with the distributors and find a way to resolve their differences. Miller Coors is a strong proponent of the three-tier system and also a strong proponent of their distributors in Idaho. They have worked with the IBWDA and they came together with the compromises contained in **H 524**. Miller Coors believes that five years allows them to take an ownership interest in cases where that may be appropriate. Mr. McClure identified many instances where that is appropriate. Five years to "right the ship" and find a purchaser is an adequate amount of time, and so they support the legislation that is before the Committee.

ADJOURNED:

Chairman McKenzie said that there are others who have signed up to testify. Some leadership members must leave by 9:30, and Senator Lodge had to leave for another meeting. The Committee will not be asked to vote on this bill until the full Committee is present and those still wishing to testify have the opportunity to do so. This hearing will be resumed at the next meeting on Friday. There being no further business, **Chairman McKenzie** adjourned the meeting at 9:30 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 14, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS23146	RELATING TO EMINENT DOMAIN to Clarify the Circumstances Under Which a Public Entity May Use its Eminent Domain Authority	Ken Harward, Executive Director, Association of Idaho Cities
H 524 Continued:	RELATING TO BEER to Provide that it shall be Unlawful for a Brewer to have any Financial Interest in the Business of a Licensed Dealer or Wholesaler of Beer.	Jeremy Pisca, Idaho Beer and Wine Distributors Association
HCR 38	A HOUSE CONCURRENT RESOLUTION to Commemorate the 60th Anniversary of the Addition of "under God" to the Unites States Pledge of Allegiance.	Representative Holtzclaw
HCR 47	A HOUSE CONCURRENT RESOLUTION Relating to the Rejection of Rules of the Department of Administration Governing the Use of the State Capitol Exterior	Senator McKenzie
HCR 48	A HOUSE CONCURRENT RESOLUTION Relating to the Rejection of Rules of the Department of Administration Governing the Use of the State Property in the Capitol Mall and Other State Facilities	Senator McKenzie
S 1336	RELATING TO LEGISLATIVE STANDING to Add a New Section to Provide a Process for Intervention in Lawsuits Challenging a Law or Constitutional Provision	Senator McKenzie
MINUTES	The Minutes of March 3, 2014	Senators Hill and Davis
	The Minutes of February 5, 2014	Senators Winder and Fulcher

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 14, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 8:01 a.m. with a quorum present.

RS 23146 Relating to Eminent Domain to Clarify the Circumstances Under Which a Public Entity May Use its Eminent Domain Authority; presented by Ken Harward, Executive Director, Association of Idaho Cities.

Chairman McKenzie declared a conflict related to **RS 23146** due to his involvement in litigation with the cities and stated his position that it is appropriate for the cities to advance their concerns by having a print hearing. **Chairman McKenzie** introduced Ken Harward from the Association of Idaho Cities.

Mr. Harward explained that this RS concerns limitations and clarifications of the use of eminent domain authority.

MOTION: **Senator Hill** moved to send **RS 23146** to print. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

H 524 CONTINUED Relating to Beer to Provide that it shall be Unlawful for a Brewer to have any Financial Interest in the Business of a Licensed Dealer or Wholesaler of Beer; presented by Jeremy Pisca.

Chairman McKenzie announced that discussions would continue and began with those signed up to testify.

Mitch Watkins of Watkins Distributing located in Twin Falls, Idaho Falls, Hayden and Lewiston. **Mr. Watkins** voiced his opposition to this bill. Since 2008, Anheuser Busch (AB) has had two wholesaler transactions in Idaho. In each of these transactions, AB has approved the purchase between Watkins Distributing and the seller, showing no interest in purchasing the business themselves. These are not the actions of a supplier trying to take over the middle tier. There is an attack on the middle tier and state based alcohol regulation in this country but it isn't coming from the suppliers, it comes from large, multinational retail companies who resists state authority. AB supports the three-tier system and the current state based regulatory system. If AB wholesalers have no problem with their supplier or any issue with the current Idaho law, why are they being asked to consider this legislation. The current system works well.

John Grizzaffi is a partner in Stein Distributing Company (Stein). They distribute AB and other products covering an area from Glens Ferry to White Bird and they are a member of the Idaho Beer and Wine Distributors Association (Association). They oppose **H 524**. **Mr. Grizzaffi** stated that he does not believe there is a problem that requires legislative action; the current system works well. The beer industry, like others, has been consolidating. Over the last 18 years there have been many distributorships that have consolidated and there are only 3 left. AB has never tried to buy one of those distributorships in Idaho. A distributorship in Boise was owned by Coors and they enjoyed no special privileges or competitive edge in the marketplace. This is one of the rare instances that Stein disagrees with the Association. They did not have an opportunity to review the proposed legislation. It is not clear who this bill will protect.

Senator Lodge asked three questions:

- 1) How Stein would be hurt if this bill passes?
- 2) Has AB purchased distributorships in other neighboring states?
- 3) Is AB an American Company anymore?

Mr. Grizzaffi said they have no intention of selling their business. There is no reason that AB has any interest in buying a distributorship in Idaho. However, they want to preserve that right. They have recently purchased branches in Oregon. They are not an American company, but neither is Miller Coors.

Dan Scovel, President, Hayden Beverage Company (Hayden). Hayden is a second generation, Idaho based business that employs about 300 people with locations in Boise, McCall, Lewiston, Jerome, Post Falls, Ketchum, Chubbuck and Idaho Falls. Their distributorship is not dominated by a major brewery. This bill is about closing a loophole which does not damage the current relationship between any brewer or distributor since it remains the same as it is today but it does provide for a viable option for transition if it is ever needed. The bill supports the brewery distributor but it also maintains the integrity of the three-tier system. The compromise that was reached to let a brewery own or have a financial interest in a distributor for five years is more than adequate. He is not aware of a distributorship that has been for sale on the open market that had difficulty selling; it has been quite the opposite. The three-tier system works. He asked for support of the bill.

Sheila Francis representing Idaho Brewers United, supports this bill because it limits the undue influence of the large brewers in the marketplace. Even a minority interest is a bad idea. Craft beer accounts for about seven percent of the beer sold in the State. The largest Idaho brewer produces 12,000 barrels. Idaho Brewers United supports the independence of wholesalers and believes an independent wholesaler is contractually and economically free to allocate their efforts among the brands so each brand gets the attention it deserves on its own merits. A minority interest in a business can have a large bargaining impact. AB has lost market share, but it is because consumers' taste preferences have changed and they are going to local businesses and smaller breweries. **Ms. Francis** asked for support of **H 524**.

Senator Davis asked why the bill had a cap of 30,000 barrels when the largest brewer is 12,000. **Ms. Francis** responded that 30,000 is an adequate number to allow for self-distribution. Small producers, who may be forced to go directly into a distributor's portfolio to get to the marketplace, have no value to the distributor when their competitors are well established names out in the marketplace. It is in the best interest of the distributor to pick up a brewery that has been able to self distribute and get products to the market prior to entering distribution.

Senator Hill followed up on the 30,000 question; are there operations around the 30,000 number? **Ms. Francis** answered not currently, but there is rapid growth in the craft beer market.

David Morrison, representing Craig Stein Beverage and is a minority owner and principle operation manager, supports **H 524**. They do business in 31 counties across southern Idaho. They are in the beer, wine and carbonated soft drink business. They employ about 200 people. **Mr. Morrison** stated his concern about the deterioration of the three-tier system as it applies to the distribution of beer and wine. This unique system was created by the 21st Amendment, and it allows states to regulate the rules and laws regarding the distribution of alcohol. The key to the system is the creation of the three-tier system: the supplier producer, the wholesaler distributor and the retailer. It is important to preserve, maintain and protect this system. There has been collaboration among most of the interested parties and they have arrived at an agreement in terms of language that they could all live with. **Mr. Morrison** expanded on the reasons that they are in support of this bill, some of which have already been explained in previous testimony. A wide coalition supports this bill, and only one entity has opposed the bill. **Mr. Morrison** compared the two-tier system used in the carbonated drink business with the three-tier system used with beer and wine. He said that the three-tier system is orderly and the two tier system is the "wild west" and doesn't work well and wouldn't work at all with beer and wine. **Mr. Morrison** asks for support of **H 524**.

Senator Davis supports this bill but observed that there has been testimony that this is a consensus bill with one outlier. It is hard to justify that a deal has been reached when there is one company that was not invited to participate. The focus should be on the merits of the bill and not the process. **Mr. Morrison** said that they are here as an industry association. When the process started, all members were in agreement although there were some differences of where this should go, but the majority of the Association voted to continue to move forward. There are times when it is impossible to have everyone agree.

Andrew Baldonado, Vice President of Government Affairs for Anheuser-Busch (AB), opposes **H 524**. AB has a long history in Idaho. They employ about 100 people in Idaho Falls and Bonners Ferry. They have about \$250 million invested in the State: and they have purchased about \$85 million in Idaho grown barley over the past 5 years. They have been a good corporate citizen. This is not about protecting the three-tier system, it is about tipping the balance of the free market system. Things are going well in Idaho. Nothing is stopping products from getting to the market. It is said the bill will close a loophole; no loophole exists. In 1970, the Legislature changed the law to allow the Coors company to come in and buy the distributorship in Boise. It is false that AB is seeking to take over the second tier in Idaho as their actions have spoken very clearly. The two transactions they participated in were not purchases. They do own beer distributorships in other states and have done so for over 100 years. They don't like the bill and asked to have it tabled although they would accept an amendment giving them the opportunity to have a minority interest in a business.

Senator Davis stated that the Legislature is trying to make the best decision given the fact that they do not live in the industry on a day-to-day basis. If the purpose is to provide a bridge, then why does AB feel a strong need to retain a minority interest instead of amortizing out over a period of time? **Mr. Baldonado** replied that flexibility was the answer. They all have equity agreement contracts with the wholesalers. Flexibility is to provide as many options as possible to protect their brands. Their retailers are exclusive to AB brands.

Jeremy Pisca expanded on the things that they all agree on; the three-tier system, that all tiers remain independent of one another, the system works well and currently, there are no brewery owned branches in Idaho. This bill codifies the situational status quo. The Association strongly believes there is a need for this legislation; it is not new territory. There are 34 other states that have a ban on branch ownership. Over the last five years Louisiana, Nebraska, Wisconsin, Wyoming and Ohio have passed similar bills. The cap of 30,000 barrels was set in 1994 in other portions of Idaho Code. There have been discussions and compromises to arrive at the five year limit to accommodate brewer interests. The Association cannot accommodate a minority ownership interest and that is the only counteroffer that has been made. Mr. Pisca stated he was not authorized to accept that offer. They felt the policy of the three-tier system and branch ban would be deteriorated if there were contracts in perpetuity. If there is a financial portion of the bill that needed to be fixed, he assured the Committee he would get it fixed during the interim.

Senator Davis said he didn't think that AB intended to grant a franchise without the ability of the brewer to terminate it in the event of a breach. Instead, in the absence of a default, they would have a continuing franchise. **Senator Davis** agrees that there is nothing in the bill to interfere with Article IX and the ability to foreclose. The question is, after a foreclosure does AB have the right to operate? That question is not clear.

MOTION: **Senator Hill** moved to send **H 524** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

Senator Fulcher acknowledged the arguments on both sides. Given the gravity of the ramifications of both ways, he can't award one party or the other on the existing language regarding the time period. It would make the Senator more comfortable if they could work on this bill in the Amending Order.

SUBSTITUTE MOTION: **Senator Fulcher** made a substitute motion to send **H 524** to the 14th Order for possible amendment. The substitute motion died for lack of a second.

VOTE: The original motion carried by **voice vote**.

HCR 38 A House Concurrent Resolution to Commemorate the 60th Anniversary of the Addition of "under God" to the United States Pledge of Allegiance; presented by Representative Holtzclaw.

Representative Holzclaw said that **HCR 38** commemorates the 60th anniversary of the 1954 decision made by President Eisenhower to add "under God" to the Pledge of Allegiance. **Representative Holzclaw** read a part of the Gettysburg Address given by Abraham Lincoln on November 19, 1863; "that ... this nation, under God, shall have a new birth of freedom ...". These words inspired U.S. Senator Ferguson to author a Joint Resolution which passed unanimously and was signed by President Eisenhower. By passing **HCR 38**, it may encourage Idaho citizens to investigate that time in American history.

Senator Hill asked what motivated Representative Holzclaw to bring this bill forward. **Representative Holzclaw** said that an individual from Tennessee requested him to present a bill to the Legislature commemorating the addition of "under God" to the Pledge of Allegiance. There are 43 states that have passed bills to this effect this year; her goal was to get all 50 states.

MOTION: **Senator Hill** moved to send **HCR 38** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**. Senator Winder will sponsor **HCR 38** on the floor.

**PASSED THE
GAVEL:**

Chairman McKenzie passed the gavel to de facto Vice Chairman Lodge. **Vice Chairman Lodge** said that **HCR 47** is before the Committee and called on Chairman McKenzie to present both **HCR 47** and **HCR 48**.

HCR 47

A House Concurrent Resolution Relating to the Rejection of Rules of the Department of Administration (Department) Governing the Use of the State Capitol Exterior.

HCR 48

A House Concurrent Resolution Relating to the Rejection of Rules of the Department of Administration Governing the Use of the State Property in the Capitol Mall and Other State Facilities.

Chairman McKenzie noted that **HCR 47** relates to the Committee action, which action was also taken in the House, on the rules from the Department of Administration for the use of the State Capitol exterior (**HCR 48** relates to the use of the exterior of state property in the Capitol Mall and other state facilities). Certain of those rules were rejected. The language reflects the language from the Minutes of the Committee meetings as well as what took place in the House. From **Chairman McKenzie's** perspective, when the Department was asked to draft the rules, they didn't have much time to accomplish that goal. Working under those time constraints, they did the best they could. The Committee felt the rules were a little overly restrictive on the people's ability to come to the Capitol and express their voice through protest or otherwise. That is reflected in **HCR 47** as well as **HCR 48**.

Senator Davis asked if the rule rejection in **HCR 47** mirrored what the Committee did or are there differences between the House approach and the Senate Committee's approach. **Chairman McKenzie** stated that this mirrors what the Senate Committee did. **HCR 47** does reflect the motion made in this Committee and the vote on that motion.

Senator Werk referred to both **HCR 47** and **HCR 48** and inquired if both were a direct reflection of the actions taken by this Committee. **Chairman McKenzie** acquiesced.

MOTION:

Senator Werk moved to send **HCR 47** and **HCR 48** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

S 1336

Relating to Legislative Standing to Add a New Section to Provide a Process for Intervention in Lawsuits Challenging a Law or Constitutional Provision; presented by Chairman McKenzie.

Chairman McKenzie stated that there have been discussions on this issue with the National Conference of State Legislatures (NCSL), the Attorney General's office and others across the country who have worked with language on this issue. There are a few states who have passed this kind of legislation; Virginia, North Carolina and one other state. The principle is important because there have been instances where Attorney Generals have chosen not to enforce the laws of the state. The Legislatures of those states have taken different positions in order to have representation for the Legislature itself. The specific language in **S 1336** is detailed and was written based on case law that was designed to ensure that the legislative body was actually acting on behalf of the body itself and would be recognized as such rather than the will of specific individuals in the Legislature. Other states have done this in a more concise manner, and there are other ways of invoking the will of the Legislature; this method is through the Pro Tempore and the Speaker.

Senator Davis read from line 29, sub part (b), and asked what the "or provision" means. **Chairman McKenzie** answered that it refers to the way we pass legislation by section. **Senator Davis** referred to line 15-16 (a) and looked at "constitutional provision" and suggested some thought be put into some of the language. The scope of legislative standing could be expanded in case the need for the prosecution to defend a constitutional principle should occur. Additionally, page 2, line 7, refers to vacancies in the offices of the Pro Tempore or the Speaker. There is a provision for an immediate succession in the event of a death or resignation in the interim, and this might be a guide to hitting the target.

Chairman McKenzie requested that **S 1336** be sent to the Amending Order to work on amendments, acknowledging that it may not go forward this year.

MOTION: **Senator Siddoway** moved to send **S 1336** to the 14th Order for possible amendment. **Senator Fulcher** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lodge passed the gavel back to Chairman McKenzie.

MINUTES: **Senator Hill** moved to approve the Minutes of March 3, 2014. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

Senator Fulcher moved to approve the Minutes of February 5, 2014. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman McKenzie** announced that there would be a meeting on Monday. There being no further business, **Chairman McKenzie** adjourned the meeting at 9:18 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary

AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, March 17, 2014

SUBJECT	DESCRIPTION	PRESENTER
RS23163	RELATED TO WATER to Revise the Exemption Provision Related to the Release and Diversion of Water and Other Water Issues.	Senator Brackett
H 570	RELATING TO ADMINISTRATIVE RULES Continuing Rules Approved or Extended to be in Effect Until July 1, 2015.	Representative Rusche
HCR 51	A CONCURRENT RESOLUTION to Establish March 30, 2014 as the "Welcome Home Vietnam Veteran Day."	Representative Boyle
HCR 52	A CONCURRENT RESOLUTION to Recognize and Honor Jon Meade Huntsman.	Representative N. Anderson
HCR 58	A CONCURRENT RESOLUTION Requesting the Legislative Council to Appoint a Committee to Study Endowment Land Issues.	Representatives Vander Woude and Burgoyne
HJM 8	A JOINT MEMORIAL to Urge Federal Legislation in Support of Members of the Armed Services Who have Gone Missing as a Top Priority of Our Government.	Senator Stennett
PAGE GRADUATION:	Graduation of Page Victoria Richardson	

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman McKenzie	Sen Lodge
Sen Davis	Sen Siddoway
Sen Fulcher	Sen Stennett
Sen Hill	Sen Werk
Sen Winder	

COMMITTEE SECRETARY

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 17, 2014

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 8:01 a.m. with a quorum present and announced the first order of business.

RS 23163 RELATED TO WATER to Revise the Exemption Provision Related to the Release and Diversion of Water and Other Water Issues; presented by Senator Brackett.

Senator Brackett stated that **RS 23163** has three parts. The first amends Idaho Code § 42-201 and addresses water used for firefighting and controlling wildfires; water can and should be used to protect life and property. The use of that water should not cause injury to the owner's use of the water right. Water used by a fire district should be coordinated with the owner so as not to jeopardize livestock. The second part, Idaho Code § 42-204, relates to the approval of a new water right and how it will affect storage in reservoirs on the Snake River and its tributaries upstream from Brownlee Reservoir and when a mitigation plan must be developed. The third part, Idaho Code § 42-607, memorializes the memorandum of agreement between the Army Corps of Engineers and the Department of Interior for flood control as amended by the Water Control Manual for Boise River Reservoirs. This RS reflects the progress that has been made in negotiations between all parties to achieve compromises. The intent is to have the bill printed so it will be available during the summer and fall months for further negotiations and then to make a determination if there is a need for any further legislation.

MOTION: **Senator Werk** moved to send **RS 23163** to print with the understanding that it would be given a bill number and laid on the table for further work over the summer months. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

H 570 RELATING TO ADMINISTRATIVE RULES Continuing Rules Approved or Extended to be in Effect Until July 1, 2015; presented by Representative Rusche.

Representative Rusche explained that this bill continues in effect those rules that would otherwise expire this year. The bill also states that the bills that are rejected by concurrent resolution are indeed rejected. **Senator Werk** asked what the impact would be if this bill did not pass. **Representative Rusche** answered that it would mean that there would be no legal basis for the operation of government for the State of Idaho.

MOTION: **Senator Werk** moved to send **H 570** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

HCR 51 A CONCURRENT RESOLUTION to Establish March 30, 2014 as the "Welcome Home Vietnam Veterans Day"; presented by Representative Boyle.

Representative Boyle said that **HCR 51** honors the Vietnam veterans and welcomes them home from that war. They did not have a welcome home since that was a very controversial war. There is a nationwide effort to welcome them home on March 30, 2014. **Chairman McKenzie** asked if there is a nationwide effort to have formal ceremonies or is this just an official statement of the Legislature. **Representative Boyle** responded that there would be a celebration.

MOTION: **Senator Fulcher** moved to send **HCR 51** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

HCR 52 A CONCURRENT RESOLUTION to Recognize and Honor Jon Meade Huntsman; presented by Representative Anderson.

Representative Anderson discussed the reasons why **HCR 52** honoring Jon Meade Huntsman is being brought forward. **Representative Anderson** left the reading of the bill to the members of the Committee and told some personal stories about Mr. Huntsman that depicted his nature, accomplishments and charity he exhibited throughout his life. This is a way to pay tribute to this native born Idahoan who maintains a home in Driggs. This award will be presented during the Fourth of July celebration in Driggs.

MOTION: **Senator Siddoway** moved to send **HCR 52** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

HCR 58 A CONCURRENT RESOLUTION Requesting the Legislative Council to Appoint a Committee to Study Endowment Land Issues; presented by Representative Burgoyne.

Representative Burgoyne explained that this is a request that the Legislative Council appoint a committee to study the endowment land issues at a cost not exceeding \$10,000. The bill defines the issues that are to be studied and sets out who is to be appointed to the committee and how it should function.

MOTION: **Senator Werk** moved to send **HCR 58** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

HJM 8 A JOINT MEMORIAL to Urge Federal Legislation in Support of Members of the Armed Services Who have Gone Missing as a Top Priority of Our Government; presented by Senator Stennett.

Senator Stennett explained that there are currently 83,000 service members that are prisoners of war or missing in action from World War II, the Korean War, the Vietnam War, the Cold War Missions, the Persian Gulf War and Operation Iraqi Freedom. Representative Michele Bachmann, U.S. House of Representatives, introduced House Resolution 231 to the First Session of the 113th United States Congress, which seeks to establish the Select Committee on POW and MIA Affairs with the charge to conduct a full investigation of all unresolved matters relating to those prisoners of war or missing in action. **HJM 8** urges Congress to support and vote for HR 231. Senator Stennett submitted a handout about a documentary "Keeping the Promise Alive" involving Air Force Captain Harry Cecil Moore and his family's story and showed a trailer of that film.

MOTION: **Senator Lodge** acknowledged her godfather, Technical Sergeant Lawrence Francis Nally, who went missing on February 28, 1945, and in his honor, moved to send **HJM 8** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

PAGE GRADUATION: Graduation of Page Victoria Richards

Chairman McKenzie noted that the Committee page, Victoria Richardson, has worked closely with the Committee Secretary with great efficiency and a good attitude. He called Victoria forward to award her a letter of recommendation, a watch from the Committee and a letter signed by each Committee member. **Senator McKenzie** asked her to tell about her experience and what plans she has for the future.

Victoria stated that being a page has been one of her best experiences. She came to get a better political view and ended up with a big, first hand view of political life. The best thing has been building new relationships with the leaders of the State. She will be traveling to England in June along with her parents, get a job during the summer and then go to the University of Idaho. **Chairman McKenzie** thanked her for her service to the Committee.

ADJOURNED: **Chairman McKenzie** stated that any future Committee meetings will be at the call of the Chair. There being no further business, the meeting was adjourned at 8:28 a.m.

Senator McKenzie
Chair

Twyla Melton
Secretary