

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 02, 2015

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, Stennett and Buckner-Webb

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.

GUBERNATORIAL APPOINTMENT: **The Gubernatorial Appointment of Janet Gallimore as Preservation Officer for the Idaho State Historical Society.**

MOTION: **Senator Siddoway** moved to send the gubernatorial appointment of Janet Gallimore as Preservation Officer for the Idaho State Historical Society to the floor with the recommendation that she be confirmed by the Senate. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **The Appointment of Kristine Sasser to the Idaho Public Utilities Commission.**

MOTION: **Senator Winder** moved to send the gubernatorial appointment of Kristine Sasser to the Idaho Public Utilities Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT HEARING: **The Reappointment of Jeff Anderson as Director of the Idaho State Liquor Division (Liquor Division).**

Chairman McKenzie introduced Jeff Anderson and noted that a confirmation hearing was inadvertently missed at the time of Mr. Anderson's original appointment. This is the reappointment for a subsequent term.

Mr. Anderson, Director, Idaho State Liquor Division (Liquor Division), observed that it has been nearly five years since his appointment to this position. He also serves as Director of the Idaho State Lottery Division (Lottery). He stated that they take the responsibility as stewards of this agency seriously, and it is an honor to be reappointed.

Vice Chairman Lodge referred to the Lottery and said she had observed two machines located close to an ATM machine in a restaurant/bar business. She described the machines and the area in which they were located. **Vice Chairman Lodge** asked how long those machines have been in use and who monitors them. **Mr. Anderson** responded that he wasn't familiar with the individual location, but they do have three types of vending machines:

1. The wind station that offers scratch tickets and draw games.
2. A kiosk that offers draw games and other lottery draw products.
3. Touch tab devices that are in age controlled environments.

Mr. Anderson stated that he is unaware of any machines located at a site available to anyone under the age of 18. **Vice Chairman Lodge** stated her concern that two machines were located next to an ATM as well as the design of the machine.

Vice Chairman Lodge questioned the appearance of the large billboards for the Lottery. She asked the cost of those signs, why they have been changed and the amount of money that has been spent on advertising. **Mr. Anderson** answered that the advertising budget is around \$3 million. The statutory limit is 3.5 percent of sales and they are averaging about 1.8 percent. There are 12-13 billboards throughout the State advertising jackpot games. Those signs were on a 10 year contract that expired. They went out for bids and Lytle Signs from Twin Falls was selected. A different type of display using LED lighting was chosen with a cost less than the old ones. They spend \$300,000 a year leasing the signs.

Chairman McKenzie stated that he had served on a task force to update the liquor laws, licensing, and training. He asked if there were any plans to look at those issues again. **Mr. Anderson** explained that there is a difference between the authority that the Liquor Division has and that of the Alcohol and Beverage Control (ABC) at the Idaho State Police. The licensing is under the purview of ABC, the Liquor Division is the importer and retailer of distilled spirits. The bars and restaurants are their customers. The Liquor Division does a thorough job in training. Most of their customers are trained in over serving and to ensure underaged consumers are not served.

Senator Hill asked if Mr. Anderson is also the director of the Lottery, and if so, are they both are paid positions and are they part-time or full-time. **Mr. Anderson** responded that he is a paid employee of the State of Idaho and was appointed as director of the Lottery in 2007. In 2010, he was also appointed to oversee the Liquor Division. He has a very good executive team and associates that allow him to do both jobs effectively. **Senator Hill** wanted to know if these are two full-time jobs that Mr. Anderson is doing at the same time, or were they two part-time jobs being done at different times; how was his salary distributed between the two different agencies? **Mr. Anderson** explained that he divides his time about half-and-half. They are both full-time jobs that he couldn't do without the help of the executive staff. His pay was increased but not doubled when he was appointed to the Liquor Division. Mr. Anderson said he receives \$130,000 per year. The Liquor Division pays 80 percent and the Lottery 20 percent.

Senator Davis asked if the position at the Lottery was subject to Senate confirmation. **Mr. Anderson** responded with a yes. **Senator Davis** asked what the length of term is. **Mr. Anderson** said there is no length of term, it is subject to the pleasure of the Governor. **Senator Davis** referred to Idaho Code § 59-504 that speaks to the beginning of another term of the Governor. Does that require reappointment as the director of the Lottery? **Mr. Anderson** said he wasn't sure if that was a formal reappointment. Each time the Governor has been reelected, he has continued to serve uninterrupted. **Senator Davis** asked about the last reappointment. **Mr. Anderson** said he was not asked to resign nor was he formally reappointed.

Senator Davis focused on the potential of a conflict when enforcing Idaho's liquor laws and the restrictions on the association between liquor and certain gambling. **Mr. Anderson** stated that the enforcement of liquor laws in relationship to the Liquor Division is very narrow. The Liquor Division doesn't license on-premise establishments, they are customers. ABC has the authority to license and regulate on-premise establishments.

Senator Davis reflected back on Vice Chairman Lodge's experience and asked if the Liquor Division personnel are encouraged by ABC to respond to them about potential violations that they may observe; could there be a conflict of interest?

Mr. Anderson answered that the devices she described would be licensed by the Lottery. Those touch tab devices are intended to be in age controlled environments and staff and vendors have clearly been made aware of that. He was interested in the location that Vice Chairman Lodge was referring to because what she described should not happen.

Senator Davis stated that it is not performance he is concerned about, it is the wearing of multiple hats. With one hat you have enforcement and licensing powers and with the other, there is distribution. It may be, that the inherent conflict makes it more difficult to enforce one of the two duties; to encourage the one, you have to ignore the other. **Mr. Anderson** stated that is not occurring. The Liquor Division distributes distilled spirits to on-premise customers with no enforcement authority, although they do cooperate with ABC. On the Lottery side, they have enforcement authority to ensure retailers are behaving responsibly. They license the retailers. There has been no conflict between the two; they are similar in that they are both business enterprises of the State.

Vice Chairman Lodge emphasized that her concern was the close proximity of the ATM. **Mr. Anderson** said that the ATM machines are not theirs and the retailers can contract to have those at their locations. They do not encourage having an ATM close to a kiosk. He said a pilot project occurred in 2009. Before launching the project, the leadership, the Governor and the germane committees were notified, and they were notified again when the project went out across the State. They have an Attorney General's opinion that says that they are legal. **Mr. Anderson** described in detail how the machines work.

Senator Lakey said he hasn't seen the machines; what do they look like and what happens when they are played? **Mr. Anderson** said that cash goes in, vouchers come out, tickets are played in sequence within the device, it is a kiosk and the images seen on the screen mimics a paper ticket for a particular game. Paper tickets are available at the location. It is just another method of dispensing the play options for those who chose to do so. **Senator Lakey** asked if it is a scratch ticket. **Mr. Anderson** explained that when a player is finished, a button is pushed that says "I'm Done" and a voucher is dispensed that is taken to the cashier for payment. **Senator Lakey** asked if this machine functions or looks like a slot machine. **Mr. Anderson** answered "no, it does not".

Chairman McKenzie announced that they would vote at the next meeting.

S 1030

Relating to Codifier's Corrections to Provide Correct Terminology and make Technical Corrections to Idaho Code.

Katharine Gerrity, Research and Legislation (LSO), explained that **S 1030** is LSO's annual codifier correction bill. There are 64 sections of the code that have been revised. The proposed revisions include codifiers' suggested corrections, changes in the names of programs and entities, and technical corrections involving grammar and punctuation to make it consistent with LSO's standard writing style. There are three sections that are being repealed because they have been superseded by a more recent section of code.

MOTION:

Senator Davis moved to send **S 1030** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

S 1104

Relating to Veterans to Authorize the Establishment of a Veterans Home.

Senator Nonini explained that **S 1104** pertains to veterans services in the State so they can be ready when the Division of Veterans Services in Washington D.C. approves a fourth veterans home in Idaho. Currently there are three: Pocatello, Lewiston and Boise. There are over 18,000 veterans in the Northern counties, and there is a need for another veterans home.

Senator Nonini reported that two citizens have donated ten acres of land for the facility once it has the federal government's approval. The State would be required to pay 35 percent of the cost of the facility. That cost would come out of the Veterans Recognition Fund (Fund) that currently has a balance of \$20 million. It is estimated that 35 percent of the total cost would be approximately \$11 million; that is not General Fund dollars. At this time, it is up to the federal government to make the decision to build a facility in Northern Idaho.

Senator Stennett asked where this facility would be located if approved. **Senator Nonini** responded that the plan is to put it in Post Falls where it would serve the five Northern counties. That is where the 10 acres is located. **Senator Stennett** asked if there was a total cost for the project. She said the request is for a commitment without knowing what the total cost to the State would be. **Senator Nonini** yielded to Tamara Mackenthun, Deputy Administrator, Idaho Division of Veterans Services, to answer the question.

Ms. Mackenthun explained that the 35 percent match would be about \$11 million. The estimated total cost for the veterans home in 2015 was \$35 million and there would be an inflationary figure of 5 percent each following year. **Senator Stennett** asked if this would be a total of \$46 million or more. **Ms. Mackenthun** responded that, in 2015, the match would be \$11 million.

Senator Lakey asked for information on the Fund and how the ongoing funding for the facility works. **Ms. Mackenthun** answered that the Fund was initiated two years ago when there were some relatively large cash balances because of the difference between the federal per diem rates and the amount of funding needed to operate the three veterans homes. The funds were held in place to fund this type of a project and to fund ongoing projects for veterans throughout the State. **Senator Lakey** asked how the facility would be funded once it is built. **Ms. Mackenthun** answered that the income would fund it. All three of the veterans homes are self-funded through the federal per diem, medicaid or private payment.

Senator Davis restated that the total cost would be \$35 million, it is low because the land is donated and the State will contribute approximately \$11 million. **Ms. Mackenthun** concurred. **Senator Davis** referred to the bill which states the amounts in percentages and not in dollars. He reiterated that it is anticipated that operation of the facility would be self-funded. **Senator Nonini** agreed. He emphasized that when referring to state funds, it is clear that the monies are coming from the Fund and not the General Fund.

Senator Davis asked if the disparity that created the Fund still exists and will that continue. **Senator Nonini** said it is his understanding it will continue. **Ms. Mackenthun** said it is the appropriation from the federal government. **Senator Davis** asked if the Committee were to advance the legislation, would the sponsor be willing to modify the Fiscal Note to specifically say that, based on today's estimated cost, projected construction costs are, whatever that number is, and 35 percent would be approximately whatever the number is, and then identify the source as the Veterans Recognition Fund. Then, add whatever the best estimate is for the projected operating costs based on the historic practice and that it is anticipated the same would occur at the new facility. **Senator Nonini** agreed to update the Fiscal Note.

Senator Siddoway asked if this legislation restricts the project to Northern Idaho. **Senator Nonini** explained the process on the national level where the ultimate factor is need. Idaho is not at the top of the list. The purpose of the legislation and the donation of the land is to show that Idaho is ready. **Ms. Mackenthun** added that a detailed study has been made that identified Northern Idaho as the area most in need of a veterans home within the State.

MOTION: **Senator Hill** moved to send **S 1104** to the floor with a **do pass** recommendation pending the Fiscal Note changes. **Senator Lakey** seconded the motion. The motion carried by **voice vote**

RS 23675 **A Concurrent Resolution Requesting the Department of Lands to Improve the Working Relationship with Land Management Agencies.**

Senator Winder introduced **RS 23675**. He explained that this legislation is the first of two pieces of legislation that he has been working on. Both pieces of legislation are the result of a lands interim committee that has been meeting over the last two years. **RS 23675** asks assistance from Idaho's congressional delegation in asking the federal government to develop a model that allows the federal lands in Idaho to be self-sustaining economically. The legislation also excludes certain areas of federal lands from any transfer of federal lands. If lands are transferred, it would be controlled under Section 8, Article 9 of the Idaho Constitution.

MOTION: **Senator Siddoway** moved to print **RS 23675** with the Committee's recommendation that it be returned to a committee for hearing. **Senator Winder** seconded the motion.

Senator Stennett stated that the bill needs a broader hearing. She has a lot of questions. She referred to the Statement of Purpose (SOP) and asked if the Department of Lands (Department) would be taking on more responsibilities. **Senator Winder** said he has been told that the actions required by this bill are already going on in the Department at this time. **Senator Stennett** asked about the follow-up bill requiring an oversight commission; how is that different from what the responsibilities of the Department are? **Senator Winder** said that resolution would require a Fiscal Note acknowledging additional responsibilities for the Department. **Senator Stennett** asked if this is asking for additional options on state lands as well as federal lands. **Senator Winder** answered "no". **Senator Stennett** said she will support printing the bill on the basis that there will be further discussion.

The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Hill** moved to approve the Minutes of February 23, 2015. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Winder** moved to approve the Minutes of February 13, 2015. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 9:02 a.m.

Senator McKenzie, Chair

Twyla Melton, Secretary