

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 17, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Winder, Lodge, Vick, Anthon, Stennett, and Buckner-Webb
ABSENT/EXCUSED: Senators Hill
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 Siddoway** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENT: **The appointment of Brigadier General Michael J. Garshak as Adjutant General of the State of Idaho Military Division.**

Michael J. Garshak, Brigadier General, Idaho National Guard, stated he has recently been appointed as Adjutant General of the Idaho Military Division.

Chairman Siddoway asked Brigadier General Garshak to describe his duties as Adjutant General. **Brigadier General Garshak** explained that the Idaho Military Division consists of the Idaho Air National Guard (Air Guard) with 1,200 active Idahoans, and the Idaho Army National Guard (Army Guard) with approximately 3,900 individuals serving. The Idaho Military Division also oversees the Idaho Office of Emergency Management, the Idaho Youth Challenge Program in Pierce, Idaho, and the star-based science, technology, engineering, and math (STEM) program at Gowen Field.

Vice Chairman Hagedorn asked if the Idaho Military Division is the largest employer in the State. **Brigadier General Garshak** answered they are the fourth largest employer in the State. The economic contribution to the State is \$485 million. He said one of his objectives is to create awareness of the value invested throughout the State of Idaho so they can build partnerships to continue enhancing membership in the Guard. **Vice Chairman Hagedorn** requested information about any new missions or recent missions that the Guard has acquired. **Brigadier General Garshak** described the status of the F-35 fighter aircraft mission. They were in the top five but were not the top two selections. They will continue with the process in the event one of the top two are deemed unsuitable. Currently, the A-10 fighter mission is funded and remains relevant as a war-fighting asset.

The Army Guard is pursuing training at the Orchard Combat Training Center located 20 miles south of Gowen Field at a national conservation area shared with the Bureau of Land Management (BLM). Lieutenant General Timothy J. Kadavy, Director, Army National Guard, National Guard Bureau, has identified the Orchard Combat Training area as the best place to train National Guard armor brigade combat teams. Resources are being invested to modernize the ranges and increase railhead/capacity to receive the teams. The modernization will potentially result in increased employment and training for the State. This would increase the economic impact of the Idaho National Guard.

Senator Winder asked how education and training prepared Brigadier General Garshak for this position. **Brigadier General Garshak** explained that after returning from the United States Army War College in 2006, he was assigned as a State Army Aviation Officer and aviation group Commander with the responsibility to maintain the readiness of all Army aviation units assigned to the Idaho National Guard. In 2012, he was assigned as Director of Operations for the Army National Guard. In that capacity, he managed and distributed operations and resources to the organizations to facilitate their training. In 2014, he was assigned as a Chief of Staff for the Army National Guard where he supervised the Army staff and worked closely with the Assistant Adjutant General for the Army, directing the National Guard for both local and national issues. Brigadier General Garshak asserted that the four years in that capacity best prepared him for this position.

Chairman Siddoway stated his appreciation to Brigadier General Garshak for his willingness to serve in this capacity; he also expressed gratitude to those who serve with him. The Chairman also extended the appreciation of the Committee, members of the full Legislative body, and the citizens of the State of Idaho.

GUBERNATORIALThe reappointment of Jeffrey Anderson as the Director of the Idaho State APPPOINTMENT: Liquor Division.

Jeffrey Anderson, Director, Idaho State Liquor Division (Division), stated he has been the Director since April 2010. He also serves as the Director of the Idaho State Lottery. The Division is organized within the Executive Office of the Governor. The Idaho Constitution provides authority for the Division to oversee the traffic of distilled spirits. The Division operates 66 State stores that are staffed by State employees. There are also 105 contract stores in small communities where a State store is not warranted. The Division is the sole wholesaler and retailer of distilled spirits in Idaho. It owns one piece of property that is the central office and warehouse distribution center.

Director Anderson said his goal over the last seven years has been to ensure that the product is retailed responsibly. Compliance rates are much better than private business because of training. Another goal is to have distributions grow faster than sales, and sales to grow faster than the nine liter case depletion (the amount that goes through the warehouse). If the nine liter case depletions grow, they should grow faster than per capita consumption. Since 2010, all of those indicators have been met.

Senator Winder referred to an article regarding Oregon retail stores where 20-25 percent of stores selling alcohol and marijuana were selling to minors. He asked Director Anderson to discuss the Division's strategies to prevent young people from obtaining liquor. **Director Anderson** said he had read the same article. That percentage related to marijuana retailers. He explained how Oregon methods differ from Idaho methods. The Division focuses on ongoing, continuous training with both online and in-person training for store employees and they have an excellent compliance rate. **Senator Winder** asked what types of intervention and investigations are done by the Division to ensure that the retail distributors (bars) are complying. **Director Anderson** answered that the Alcohol Beverage Control (ABC) has the enforcement authority. The retail distributors are customers of the Division, but the Division has no authority over compliance at those locations. The Division cooperates with the ABC when asked, but has no law enforcement authority.

Vice Chairman Hagedorn inquired about the impact of Idaho liquor sales when Washington changed the way they were managing their liquor sales. **Director Anderson** said the impact was very profound for Idaho and Oregon along the Washington border. Washington has always had the highest liquor prices in the nation because of their markup formula. Washington's initiative 1183 emphasized

convenient and lower prices, however, the result was the number of locations increased and prices went up. Washington maintained their current revenue, then wholesaler and retailer markups were added convenient and lower prices. However, the result was the number of locationsd. In the past, around three percent of the Division's business came from Washington customers; now, it is nearly eight percent. A store has been opened in Stateline, Idaho; it is now the highest grossing store. An average store grosses \$2-\$3 million annually; the new store grosses \$10 million annually.

Senator Anthon referred to Director Anderson's resume where he listed the growth in revenues from 2010 and asked if those were gross revenues. **Director Anderson** answered in the affirmative. **Senator Anthon** inquired as to the net. **Director Anderson** explained that the Idaho sales tax is included in the revenue figures. The Division collects sales tax like any other retailer, but they do not remit it to the State Tax Commission because it is treated as Division revenues. In Fiscal Year (FY) 2010, sales revenue was \$137,600,000. Distributions to the stakeholders, which are cities, counties, State government, and a variety of other programs, were \$47,200,000.

In FY 2018, the forecast is \$211,000,000 in sales and a little over \$77,000,000 in distributions. Sales are up 53 percent and distributions are up 64 percent. The Division operates on about a 35 percent net margin. The nine liter depletions have only increased 30 percent during that period. Per capita consumption has only increased 15%. This is in line with national trends for distilled spirits. This has been accomplished with only an 11 percent increase in full-time employees. Expenses are managed responsibly and rigorously, which is why a growing share of the returns go to distributions. Net margin in 2010 was 33 percent and it is currently about 35 percent.

Vice Chairman Hagedorn asked why the sales tax is not included in the price which would reduce the administrative burden. **Director Anderson** stated it isn't any extra work to capture that information. The contract stores are already set up to charge sales tax, and the State stores charge it through a simple program on the cash register.

Chairman Siddoway inquired about the work and improvements needed as referred to in Director Anderson's resume. **Director Anderson** identified two items. The Division has been operating with the same number of State-operated retail locations for a decade. Last year, a request was made to open two new stores in the Treasure Valley; the request was denied. The Division will come to the Legislature with the same request this year. Idaho is the fastest growing state in the nation; Meridian is one of the fastest growing cities in the country. Keeping up with convenient, but responsible access is important.

The warehouse underwent a major renovation just prior to 2010 when an automated storage and retrieval system was added. More product is being moved through the warehouse than was anticipated and they will be facing issues with warehouse capacity. **Senator Vick** asked who makes the spending decisions. **Director Anderson** answered that they need spending authorization from the Legislature for any major expenditures.

The Division receives no General Fund dollars, so any growth comes out of the operations. These investments require more people and capital expenditures, but they pay for themselves within a year or two.

GUBERNATORIALThe reappointment of Randolph Hill to the Idaho Energy Resources Authority. APPOINTMENT:

Randolph Hill, Idaho Energy Resources Authority (IERA), noted that this is his fourth appointment to IERA. He was appointed by Governor Kempthorn in 2005,

then by Governor Risch, and reappointed twice by Governor Otter. **Director Hill** introduced Ron Williams, the Executive Director for the IERA, who has also been involved with the IERA since its inception. **Director Hill** said he comes from a varied background; a lawyer by profession, but has also been a Chief Executive Officer of a power company. Director Hill also worked at the Washington Group (formerly Morrison-Knudsen), and is currently a lawyer at Stoel Rives LLP where he specializes in the energy arena.

The IERA is designed to facilitate the financing, development, and construction of energy facilities; primarily transmission and generation facilities. The Bonneville Power Authority (BPA) cannot finance 100 percent of its capital needs with U.S. Government dollars; IERA has forged a strong relationship as a resource for some of that funding. The BPA and IERA completed a \$200 million, long-term bond financing in September 2017. The proceeds were used to acquire facilities throughout the federal Columbia River transmission systems. BPA and IERA have another financing in progress to upgrade certain transmission facilities.

This organization benefits the State of Idaho because it allows for the facilitation of construction and operation of various important facilities that serve all of Idaho's citizens, without the full faith and credit of the State behind it. There is no risk in these financings for the State – the financing is a pass through. The debt service is paid by lease payments flowing from BPA to the IERA. Those payments are then applied to the bond payment. This has been a very successful relationship and Director Hill anticipates that, over the next several years, the IERA will do a number of transactions with BPA that will further benefit the citizens of the State of Idaho.

Senator Stennett asked about the changes Director Hill has seen during the time he has served in this position. **Director Hill** responded that there has been a huge change in the energy industry with the advent of renewable energy. He gave several examples how different states and regions are addressing the impact of renewable energy. The Northwest is unique in that it has a tremendous hydroelectric system and extensive transmission systems the BPA uses as an anchor to meet Idaho's needs.

The last 10-15 years have seen a change in the type of energy that is generated from traditional natural gas and coal; energy sources are transitioning to nuclear, wind, solar, and other renewable energy. There may be another change if scientists can find a stable energy system that will be a base for the intermittent nature of solar and wind.

Senator Stennett inquired about the number of projects that Director Hill is currently overseeing through the IERA. **Director Hill** answered that they have at least three they are actively managing. They are preparing a strategic plan to make this type of financing vehicle available to others.

Senator Anthon asked what the State's future needs in megawatt power will be, and how that affects the work you do. **Director Hill** said, based on market dynamics, there will be a need for added generation because the economy is expanding. **Senator Anthon** commented that Utah Associated Municipal Power Systems (UAMPS) is in the process of developing another coal fired power plant in Delta, Utah, in conjunction with Intermountain Power Plant (IPP). He asked Director Hill if he foresees any future new development for coal-powered generation.

Director Hill stated he has seen what value coal fired power plants have added to the country and the economy. Coal has been a stable source of power for decades and continues to be an important part. However, there has been an interesting change. Although international financiers are interested in coal, many lenders will not finance another coal project. There are still opportunities to upgrade existing facilities but, in his view, the days for new coal generation in this country are over.

Vice Chairman Hagedorn referred to the Idaho National Laboratory (INL) and the small modular reactor activity that is ongoing at INL. He asked if Director Hill was aware of any activity of that type that the IERA is involved in. **Director Hill** answered that he was not aware of any activity that is similar to the INL.

However, he is aware of the project that UAMPS has been considering. The United States Department of Energy (DOE) may guarantee and service that loan. At this point, it is unclear if there is a role for the IERA.

Senator Winder asked if the Columbia River Treaty could impact BPA and the type of financing the IERA does. **Director Hill** answered that it doesn't have any direct impact on anything the IERA is doing. It does impact the way BPA operates its system. The IERA would not be involved until BPA brings the final engineered plans to them for funding.

Chairman Siddoway referred to his trip to Washington D.C. where he had the opportunity to speak with people who were involved with the rules and regulations that govern transmissions. The discussion was about the availability of open spaces that could be used for transmission lines instead of going through private land. He asked Director Hill if he thinks those regulations may be relaxed to some extent. **Director Hill** recognized those frustrations. His understanding is those regulations are softening but that will take time.

GUBERNATORIALThe appointment of Katie Brodie to the Idaho Commission on Human Rights
APPOINTMENT: (Commission). Telephone interview.

Chairman Siddoway confirmed he was talking with Ms. Brodie. He asked her to tell the Committee about her experience and her responsibilities on the Commission.

Katie Brodie stated she has been a resident of Hayden Lake, Idaho for 55 years and is seeking a position on the Commission. **Ms. Brodie** stated her desire to be involved to make sure that activities such as those in the 1980s, and currently in Sandpoint, will be stopped so Northern Idaho doesn't get a negative reputation. **Ms. Brodie** said her experience includes being a realtor, she was involved with Jobs Plus and Economic Development, and served as a County Commissioner. Serving on this Commission is something she would like to be involved with. The opportunity presented itself when there was a vacancy on the Commission.

Senator Vick observed that Ms. Brodie started at the Commission in September; he inquired as to her experience so far. **Ms. Brodie** said she has been involved in two meetings via conference calls. There have been a number of cases before the Commission; most were workplace related. Most of those have been dismissed after lengthy consideration of each case. The Commission makes well-thought-out, good decisions, and the investigators are exceptional. **Ms. Brodie** said her experience has been very positive. **Senator Vick** referred to Ms. Brodie's goal to protect the reputation of Northern Idaho; he asked how the Commission can be proactive in meeting that goal. **Ms. Brodie** responded that being in Hayden Lake as the only representative on the Commission from North Idaho gives her the opportunity to keep people informed about the activity in Sandpoint.

Chairman Siddoway asked if Ms. Brodie has seen an increase in sexual harassment cases and if there has been cases before the Commission regarding those violations. **Ms. Brodie** responded that there are more cases related to sexual harassment that come before the Commission than she expected. She was surprised by the number of accusations; most were purely accusations and not a proven fact and, as such, have been dismissed. **Ms. Brodie** said she expects to see more of those kinds of cases because of the current publicity. **Chairman Siddoway** inquired if there was a procedure where such cases can be deferred for legal action. **Ms. Brodie** answered that there have been 16-20 cases to review

for each of the two meetings she has attended. Most of those have been dismissed. If there was illegal activity or merit, or if there was a question, the investigators would refer the case to proper authorities.

Vice Chairman Hagedorn referred to the activities in Northern Idaho and asked why it is relevant to the Commission; he questioned if there is an investigative authority that can assist local authorities to correct the problem. **Ms. Brodie** stated that there is "hate crime" legislation allowing lawful punishment for taking part in that sort of activity. **Ms. Brodie** stated that her interpretation is that the Commission has the ability to take proper legal action. Making the Commission aware of this type of activity in Northern Idaho is helpful.

Senator Buckner-Webb interpreted the role of the Commission as a more administrative role rather than an activist role and the Commission's greatest role is to review cases, to investigate those cases, and to act on them. **Ms. Brodie** agreed.

Chairman Siddoway recognized Representative Bob Geddes who was in attendance.

RS 25612

RELATING TO STATE VETERANS CEMETERIES to revise language and make technical corrections.

Tracy Schaner stated she is Deputy Administrator for the Idaho Division of Veterans Services. She explained that, with the potential establishment of a State Veterans Cemetery in Blackfoot, she is here in reference to **RS 25612**. The proposed legislation consists of amendments and technical corrections to Idaho Code §§ 54-1144, 65-108, 65-202, and 65-204. These codes provide proper reference for one or multiple veterans cemeteries.

MOTION:

Vice Chairman Hagedorn moved to send **RS 25612** to print. **Senator Anthon** seconded the motion.

Senator Stennett asked if the maintenance from the existing cemetery comes from the dedicated fund; if so, she inquired if that fund would be sufficient for both the current maintenance and a second cemetery. **Ms. Schaner** responded that the construction of the second cemetery is through the United States Department of Veterans Affairs (VA) grant process and that it is 100 percent reimbursable. There is a 10 percent State matching fund that is also reimbursable. However, there are non-allowable costs that are the responsibility of the State. Funds are set aside from the Veterans Recognition Fund for the non-allowable costs and steps were taken through legislation in 2017 to move those funds to the appropriate funding mechanism.

The motion carried by **voice vote**.

RS 25608

RELATING TO THE ENDOWMENT FUND INVESTMENT BOARD to revise compensation provisions regarding board members.

Chris Anton stated he is the Manager of Investments for the Endowment Fund Investment Board (EFIB). **Mr. Anton** explained that **RS 25608** is intended to increase the per diem honorarium for the EFIB members from \$50 to \$100. The increase will assist with recruiting and retaining EFIB members. More importantly, it will recognize the efforts they put forth as fiduciaries for what is currently \$3 million in investment funds. 1992 was the last time the per diem was increased. The increase in personnel cost will be less than \$2,000 per year. Those costs are funded by the EFIB clients from the Land Grant Endowment Fund and the State Insurance Fund. There is no cost to the General Fund.

Senator Stennett asked how often the EFIB meets. **Mr. Anton** said they generally meet quarterly. However, last year there were more than 12 meetings due to the

effort to fill a vacancy. The meetings are generally five to six hours plus the time spent in preparation for the meeting.

MOTION:

Senator Anthon moved to send **RS 25608** to print. **Senator Lodge** seconded the motion.

Senator Winder stated that, for the record, he is a member of the EFIB and that he receives no compensation as a member of that board.

Motion carried by **voice vote**.

DOCKET NO.
11-0406-1701:

IDAPA 11 – IDAHO STATE POLICE Idaho Racing Commission 11.04.06 – Rules Governing Racing Officials.

Ardie Noyes stated she is the Business Operations Manager for the Idaho State Racing Commission. She is appearing before the Committee to present **Docket No. 11-0406-1701**. She introduced Lieutenant Colonel Sheldon Kelly of the Idaho State Police.

Ms. Noyes explained that there are two sections of their rules that outline the time frames for procedures related to the hearings regarding equine drug violations. The time frames in these two sections currently do not coincide with one another. The proposed rule change affects *a. IDAPA 11.04.06.051.01* which is the rule regarding Stewards jurisdiction. The contents of that rule has an effect on *b. IDAPA 11.04.11.160* which is the rule regarding the split sample testing in the medication section but does not change it. **Ms. Noyes** explained that it is a matter of timing:

- *a. IDAPA 11.04.06.051.01* states a steward's jurisdiction lasts for 30 days after a race meet is held; all hearings and determinations must be completed within that time frame.
- *b. IDAPA 11.04.11.160* provides a timeline for a horseman's right to due process through the split sample procedures.

Currently, after a race is run, it could take up to 10 days to get the final lab results and then there are further processes and longer time frames that occur before the final results can be determined. That time frame is much longer than the 30 days allowed in *a. IDAPA 11.01.06.051.01*. For a complete explanation of how this affects the steward's jurisdiction restrictions and the Commission itself, see Attachment 1.

Senator Winder referred to the amended language of subsection 01. **Senator Winder** asked if it would be possible to put a time limit on the extension so it will have an end date. **Ms. Noyes** agreed there would be an end date. She said they are involved in a case that has been active since 2015; it is now in the district court. This rule provides the final date is the end of the racing season; it would not go on indefinitely.

Senator Stennett ask for clarification between the 90 days for the stewards jurisdiction and the Commission's ability to extend the time period if necessary.

Ms. Noyes explained that they took the wording for this rule from Washington, Oregon, and Wyoming rules. The change would allow the stewards to conclude the season because the steward would have done all they could by that time.

Senator Stennett asked for an example of how the Commission might be affected financially. **Ms. Noyes** answered that the stewards are paid a flat rate of \$100 for conducting a hearing. Typically, stewards resolve a hearing in a single day. There are three stewards on the panel so it would be \$300 for the day. To hire attorneys and a hearing officer in place of the stewards would be far more than the \$300.

Senator Lodge asked where the samples are sent. **Ms. Noyes** said the current laboratory is Truesdail Laboratories in Irvine, California. **Senator Lodge** asked

about the cost, and also, what ARCI stood for. **Ms. Noyes** replied that ARCI stands for the Association of Racing Commissioners International. The split sample cost is not charged to the Commission, that comes from the horseman. The cost averages \$250-\$750, depending on which laboratory that horseman chooses.

Chairman Siddoway asked if a horse would be restricted from participating in other races if there is a contested sample. Can a horse be disqualified from participating in other races if the result is in question? **Ms. Noyes** responded no. The horse could race at another track in Idaho or run in another state. There could be a question if one of those races was a qualifying race. **Chairman Siddoway** inquired about a contested sample; if the sample is contested, would the horseman have to return the purse until there is a resolution. **Ms. Noyes** responded that purses are not distributed until all test results are returned.

MOTION: **Vice Chairman Hagedorn** moved to accept Docket No. 11-0406-1701. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 9:35 a.m.

Senator Siddoway
Chair

Twyla Melton
Secretary