

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 09, 2022

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Guthrie, Senators Winder, Harris, Lee, McClusky (Heider), Stennett, and Burgoyne

ABSENT/ EXCUSED: Senator Anthon

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: **Chairwoman Lodge** called the Senate State Affairs Committee (Committee) to order at 8:08 a.m.

GUBERNATORIAL APPOINTMENT VOTE: **VOTE ON THE GUBERNATORIAL APPOINTMENT** of Brian Yeargain to the Idaho Endowment Fund Investment Board.

MOTION: **Senator Lee** moved to send the Gubernatorial Appointment of Brian Yeargain to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

VOTE ON THE GUBERNATORIAL APPOINTMENT of Mark Tschample as Administrator for the Idaho Division of Veteran's Services.

MOTION: **Senator Winder** moved to send the Gubernatorial Appointment of Mark Tschample as Administrator for the Idaho Division of Veteran's Services to the Senate floor with the recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO:

11-0400-2100 **IDAPA 11 - IDAHO STATE POLICE/RACING COMMISSION** - Notice of Omnibus Rulemaking - Proposed rule - pages 92-195.

Ardie Noyes, Business Operations Manager, Idaho Racing Commission, stated that the rules of the Idaho State Police/Racing Commission were before the Committee for review. There were no changes to any of the rules since they were reviewed during the rules reduction act. The rules went through the full process and were reviewed and approved by the Division of Financial Management (DFM) and the Legislative Services Office (LSO). **Ms. Noyes** asked for the Committee's approval of Docket No. 11-0400-2100.

MOTION: **Senator Lee** moved to approve **Docket No. 11-0400-2100**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

11-0400-2100F **IDAPA 11 - IDAHO STATE POLICE/RACING COMMISSION** Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule - pages 4-61.

Ardie Noyes, Business Operations Manager, Idaho Racing Commission, introduced Fee Rule Docket 11-0400-2100F , the fee rules of the Idaho State Police/ Racing Commission. She explained each of the changes within this Docket were brief edits to remove redundant definitions, unneeded words, and to change words for clarity. The changes were non-substantial and did not affect the intent of the rule nor did they change any fee requirements within the rule. All changes were reviewed by DFM and LSO before publication. **Ms. Noyes** noted that there were no comments after publication. She asked for approval of the Docket.

MOTION: **Senator Winder** moved to approve **Docket No. 11-0400-2100F**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: IDAHO NATIONAL LABORATORY

Dr. John Wagner, Director, Idaho National Laboratory (INL), stated his appreciation for the support of the INL. He provided an update about where they were and what they were doing. Seventeen labs exist across the country: 3 national security labs, 10 science labs, and 3 applied science labs and INL, which focused on nuclear energy. There was strong bipartisan support for clean energy solutions. **Dr. Wagner** discussed the size of INL, current activities, history of the reactors, the various complexes, and future plans for the lab over the next few years. He explained the vision that included current strategies. The demand for small nuclear systems was growing. The objective was to gather data and gain experience to determine how that growth would happen. There was also the need to ensure that nuclear material was safe guarded and to determine how it would move forward. The need for cyber and physical security has grown dramatically. **Dr. Wagner** explained that INL was building the workforce of the future by focusing on working with Idaho universities, recruiting the best talent, and increasing inclusive diversity. (See Attachment A)

Senator Harris asked what the cost of the small nuclear systems would be. **Dr. Wagner** said building the systems was in progress but they did not have a cost as yet.

Senator Winder thanked Dr. Wagner for providing this information to the Committee. He asked if there was an estimate of what a kilowatt hour would cost by eliminating the cost of a huge infrastructure. **Dr. Wagner** said the analysis was in progress to determine what that would be.

Chairwoman Lodge asked about educational support and the expertise needed at the lab. **Dr. Wagner** said they were working closely with Idaho Universities to expand their capabilities where necessary.

Senator Stennett inquired about housing at the INL. **Dr. Wagner** stated there was a shortage of housing. INL was the sixth largest employer in Idaho and the largest in their area. The jobs pay well, an average of \$108,000 a year, and they were seeing challenges with the availability of affordable housing. **Senator Stennett** asked if they had considered providing on site housing. **Dr. Wagner** said they are open to all options and they would have to be creative such as partnering with a private sector partner. It would be more difficult to maintain security with housing projects on site.

Dr. Wagner said it was a pleasure to lead the laboratory and thanked the Committee for having him.

S 1272

RELATING TO ALCOHOLIC BEVERAGES - Adds to existing law to provide for the donation of liquor for benevolent, charitable, or public purposes.

Kate Haas, Kestrel West, on behalf of the Distilled Spirits Council explained **S 1272**. The foundational issue addressed in this bill was that currently, it was illegal for a distiller to donate product to a charitable cause because of the three tiered system that exists in distributing liquor. This bill allowed charitable purposes such as an auction item at a charitable organization event. **Ms. Haas** explained how the process would work and noted that it would be handled by Alcohol Beverage Control (ABC). The specific form already exists for other alcoholic beverage donations and an additional box or section would be added to the form to accommodate liquor. ABC and the Idaho Liquor Division assisted in crafting the bill. **Ms. Haas** introduced Captain Brad Doty, Bureau Chief, ABC and Jeff Anderson, Director, Idaho Liquor Division (Division) and the Idaho State Lottery (Lottery).

Captain Doty said that **S 1272** would correct questions seen at ABC on a monthly basis. It would help track where these activities were taking place and allow notification of local authorities when the event was not at a normal location where those products were being sold. It would also regulate those activities and keep innocent people out of trouble.

Mr. Anderson noted the Lottery regulated charitable gaming including raffles and those type of events. The Division receives many questions about donating distilled spirits or liquor. Ms. Haas did a good job with this bill and covered the important items related to the Division. The most important issue was that these products would be acquired through the Division directly or through a distiller by withdrawing them from their own inventory. This solves current problems and would remove confusion.

TESTIMONY:

Kenneth Wyatt, Idaho Distillers Association and cofounder of 44° North Vodka, spoke in support of **S 1272**. He said charity events were one of the best grassroots activities to promote product locally. It was advantageous for the charities to raise money plus small companies do not have to advertise. Promotion for these events would be included in the event promotions. It was a relatively lower cost getting product out through grassroot activities.

MOTION:

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

RS 29490

RELATING TO DISTRICT JUDGES to revise provisions regarding the appointed term of certain district judges.

Jason Hancock, Deputy Secretary of State, explained how the system works at the present time and then read through **RS 29490**. In effect, this legislation changes the election of district judges from the general election to the judicial nominating election for district judges. This change coincides with current practice which was based on the original language in legislation carried 20 years ago by Senator Clyde Boatwright.

MOTION:

Senator Winder moved to send **RS 29490** to print. **Senator Guthrie** seconded the motion.

DISCUSSION:

Senator Lee asked if someone appointed in October would have to wait four years to stand for election. **Mr. Hancock** concurred. **Senator Lee** stated her concern that the intent of the current legislation was that the appointee would be in that position for four and a half years. If they were appointed in June, the next general election, which might be two more years, would be the appropriate time for that person to stand for election. **Mr. Hancock** stated that he was not looking at policy but was interested in getting the code to line up with the intent of the original bill.

Senator Burgoyne said he had spoken with some Supreme Court justices and one of the problems in recruiting district justices was that they have to stand for election. He stated his support of this bill and believes it was a good effort to clear up the discrepancy.

Senator Guthrie asked if there was any consideration given to having practice line up with the code. **Mr. Hancock** responded that if this legislation is rejected, the alternative would be to line practice up with code which would probably result in the state being sued. **Senator Burgoyne** said there is a practical problem here. He outlined the process an appointee would go through related to shutting down his/her own business to get ready for this appointment and then they have to launch an election. It is complicated to set up a judicial campaign and the requirements are very difficult. This legislation does not need to address the policy issues.

Chairwoman Lodge agreed that there is a problem recruiting district judges because they cannot ask for money, other people have to do that for them. There was also a lack of qualified people because those qualified do not want to give up their lucrative practices to run in an election.

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

S 1273 **RELATING TO SECRETARY OF STATE** to amend existing law to revise candidate filing fee payment methods.

Jason Hancock, Deputy Secretary of State, said **S 1273** allows the Secretary of State's Office (SOS) to accept debit and credit cards as a form of payment for filing fees and the fees associated with using those cards would be added to the filing fee.

MOTION: **Senator Lee** moved to send **S 1273** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1274 **RELATING TO ELECTIONS** to amend and add to existing law to provide for postelection audits of selected paper ballots in certain elections by the Secretary of State (SOS).

Jason Hancock, Deputy Secretary of State, stated that **S 1274** would require the SOS to conduct a post-election audit of paper ballots after each primary and general election. He explained how the audits would be conducted with the assistance of the counties. The State would be divided into three groups of counties based on population then three random precinct audits would be performed in each of the three State groups. Those counts would be compared to the counts received on election night. Most states do this type of audit and it was found to be a best practice. This would be a way to validate that the systems were working correctly. If there were any discrepancies, the Board of Canvassers would be notified. All of the audits would occur within three days after the election.

DISCUSSION: **Senator Stennett** stated it seemed redundant for the legislation to state that the ballots had to be unsealed and resealed. There was no way a recount could happen unless they were unsealed. **Mr. Hancock** responded that the language was in there to make it very clear that those ballots would be unsealed and resealed. The post-election audit and a recount would not interfere with each other because of the three day timing of the audit and a recount would not happen until some time after that. It was not likely that the random audit would occur in the same precinct a recount would happen.

Senator Burgoyne thanked Mr. Hancock for bringing this legislation. Idaho didn't have audits because it was a strong statewide community where people knew and trusted one another. Elections were good, fair, and honest. If there

was an error, recounts occurred. As Idaho enters a different era, this legislation becomes necessary.

Phil McGrane, Ada County Clerk, stated he was also appearing on behalf of the Association of County Recorders and Clerks where he serves as elections chair. **Mr. McGrane** said a legislative committee was added to track elections legislation. He thanked Senator Burgoyne for his comments. Increased attention toward the election operations has occurred and tours has increased as people want assurance and confidence in the election process. The clerks conferred with the SOS on this legislation and the governor's cybersecurity task force recommended post-election audit legislation. **Mr. McGrane** envisioned that they would probably be back with more details after learning from experience. It is important that the State take this step to build confidence in the process.

Senator Stennett commented about the clean elections Idaho had in 2020. The State was second in the nation for cleanliness of elections. The clerks do not get enough accolades for what they do. She commended both the Clerks and the SOS.

MOTION:

Senator Lee moved to send **S 1274** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

Chairwoman Lodge welcomed members of the Idaho Farm Bureau to the Committee. There being no further business at this time, the meeting was adjourned at 9:35 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary