

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 22, 2016
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. with a quorum present. He introduced Brigadier General Brad Richy to present the first item on the agenda.

RS 24029C1 RELATING TO THE EMERGENCY COMMUNICATIONS ACT to consolidate governance for emergency and public safety communications.

Brigadier General Brad Richy, Bureau of Homeland Security, Idaho Military Division, explained that they are the agency responsible for the administrative support for the Emergency Communications Commission, the Statewide Interoperability Executive Council and the FirstNet Advisory Group. This proposed legislation seeks to reorganize the governance for emergency and public safety communication by eliminating one commission and one advisory group. The current structure is fragmented and lacks the opportunity for strategic planning across the components of public safety communication. The proposal represents 17 months of collaboration between state, county and local representatives as well as emergency and first responders. In addition to consolidating the committees, it reduces the number of commissioners from 53 to 18 and eliminates multiple commissioners with overlapping memberships in different committees.

MOTION: **Senator Hill** moved to send **RS 24029C1** to print. **Senator Winder** seconded the motion.

Senator Stennett stated that there are some questions about this legislation that should be discussed.

The motion carried by **voice vote**.

PRESENTATION: Pacific Northwest Economic Region (PNWER) on Cyber Security

Megan Levy, Program Manager for PNWER, stated that they are a nonprofit organization in the Northwest that brings together public and private sectors from the United States (U.S.) and Canada to talk about any major economic issue facing their shared economies. Cyber security is one issue covered through the Center for Regional Disaster Resilience. The Idaho Bureau of Homeland Security approached PNWER to investigate forming an Idaho Disaster Resilience Partnership (Partnership). The three-year project was launched in 2014 and two events have been conducted: 1) a workshop attended by 103 and hosted by Hewlett Packard (HP) focusing on the implications of a cyber attack; and 2) an exercise attended by 130 participants that was built on the first event and opened discussions between mixed sectors to talk about the intersection of cyber security and infrastructure security (attachment 1).

The goal at the end of three years is to have a partnership in place and a comprehensive action plan focusing on all critical infrastructure sectors. Upcoming events will focus on cyber security for small businesses to develop a roadmap to grow and share resources and best practices across Idaho. **Ms. Levy** presented the Idaho Cybersecurity Workshop Recommendations (attachment 2).

Brigadier General Richy explained that the relationship with PNWER has brought individuals from across the state representing local, county, state and federal agencies as well as public and private sectors to collaborate and discuss issues important to all of them. Developing relationships has increased the ability to reach out to companies like Micron who maintain their systems throughout the world. The Governor's Idaho Cybersecurity Task Force will address potential litigation against individuals both in or out of the state and that the partnership with PNWER is strong and he hopes will be able to continue doing the workshops around the state. Currently they collaborate with Washington and are working with Oregon, Wyoming and Montana.

Reid Stephan, Chief Information Security Officer, St. Lukes Health System, explained that he has been involved in cyber security for more than 16 years and has watched the increase in awareness of this topic. He approaches the challenges of cyber security as a people problem. Ultimately a single employee, intentionally or unintentionally, can circumvent a variety of controls and investments made in cyber security resources. A large amount of effort has to be directed to increase awareness and to train employees and civilians because systems are interconnected. He is also a proponent of information sharing. There is a good core nucleus of security professionals in the Treasure Valley who gather together and share information.

Senator Winder asked if most breaches have been because an employee released information. **Mr. Stephan** concurred.

Chairman McKenzie stated that PNWER does very well in collaborating. Experts from the region are sharing information through this partnership and it is becoming a huge resource.

IDAPA 15 - Office of the Governor - Military Division - Bureau of Homeland Security

15.06.03 Public Safety Communications Systems Installation and Maintenance Fee Rules

**DOCKET NO.
15-0603-1501**

Captain Steve Stokes, Attorney Advisor to the Adjutant General, Idaho National Guard, representing Major General Gary Saylor, Adjutant General for the State of Idaho and Commanding General of the Idaho National Guard in charge of Safety Communications, Idaho Military Division (IMD).

The Public Safety Communications Branch (PSC) is tasked with maintaining the emergency operations center and microwave communications systems in use by the IMD, as well as radios and computers used by other state agencies. The PSC also maintains all state-owned information technology (IT) systems used by the IMD. Organizational changes within the IMD have rendered the current rule inaccurate. The PSC is no longer part of the Bureau of Homeland Security; they now report to the executive officer of the Administration Division of IMD.

In addition to the administrative change, two distinct functions within IMD have been combined to increase capacity within the organization. It puts people with similar jobs together which will increase the overall quality and output of their workflow. This will reduce confusion in or out of the IMD resulting in proper accounting for budgetary purposes.

MOTION: **Senator Siddoway** moved to approve **Docket No. 15-0603-1501**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

IDAPA 11 - Idaho State Police - Idaho Racing Commission

11.04.06 Rules Governing Racing Officials

DOCKET NO.
11-0406-1501

Ardie Noyes, Management Assistant, Idaho State Racing Commission (Commission), reported that this rule simplifies the selection of stewards required to preside over live race meets. In the past, two stewards were hired and paid by the Commission, and one steward was hired and paid by the on-site racetrack management. The rule change will give the Commission authority to hire and compensate all stewards and appoint a presiding steward to oversee hearings and designate duties for the other stewards. This would establish consistency for the selection process and equal protection for stewards in the case a lawsuit was brought against them. The change makes all stewards part-time, seasonal employees of the Commission at a cost of \$24,000 per year, which will be provided for out of dedicated funds utilized by the Commission.

Senator Stennett asked why the \$24,000 additional salary was not reflected in the fiscal note. **Ms. Noyes** responded that they do not have an executive director and, because of that salary savings, additional funding is not needed.

Senator Davis inquired about the contractual relationship between the Commission and the deputy stewards. **Ms. Noyes** replied that it was not a contractual arrangement. Stewards are hired as Idaho State Police (ISP) part-time, seasonal employees. **Senator Davis** couldn't find any language for an employee in the proposed rule. **Ms. Noyes** answered that the change from contractual to employee was made many years ago upon the recommendation of the State Controller's Office, because the state required the employee to be on the premises and ISP provided them with a computer to do their work. That met the Fair Labor Standards Act (FLSA) requirements to be recognized as an employee.

11.04.00 Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses

DOCKET NO.
11-0411-1501

Ms. Noyes explained that this is a rule change that was implemented on July 29, 2015. The previous IDAPA Rule 11.04.11.140.03 required a horse owner or trainer to specifically request the racing veterinarian to collect additional blood on each individual horse to initiate the split-sample testing process. This temporary rule will remove the specific request requirement and give the Commission the authority to collect and store split blood samples on every racehorse that is tested following a race. This gives the owner or trainer the option of conducting additional testing at a second laboratory in the event banned substances are detected by the primary laboratory.

The additional samples will be collected and stored by the veterinarian at the testing barns. All costs associated with the collection of samples will be covered by the Commission. The fiscal impact related to this rule change was a one-time \$1,500 purchase of equipment to process and store blood.

Senator Winder asked what type of security was in place for transferring the samples from the primary to the referee lab. **Ms. Noyes** deferred to Dr. Scott Leibsle, Idaho State Racing Commission's head veterinarian.

Dr. Leibsle explained that there are two sets of blood samples collected on a horse after a race. One sample is sent immediately after the race to the primary lab for testing, and the second set is kept in storage in a locked

freezer. The key is in the hands of the veterinarian at all times. Upon request to initiate the split-sample testing process by an owner or trainer, he will retrieve the sample and transfer it to the laboratory of choice. The chain of custody is maintained because the blood samples are never out of the veterinarian's control. During the shipment process, specialized locked coolers are utilized.

Senator Davis called attention to 11-0311-1502 subsection 160.03 that states that shipments are mailed only on Monday, Tuesday or Wednesday, which indicates the use of the U.S. Postal Service exclusively. Is that who is used exclusively? **Ms. Noyes** replied that they use FedEx. **Senator Davis** suggested that at some point the word "mailed" be stricken and the word "shipped" inserted.

Senator Davis and Senator Siddoway both said they had concerns regarding the stricken language in 11-0411-1501 subsection 140.03 and replacement and stricken language in 11-0411-1502 subsection 160 and 161.

Dr. Leibsle said the language is stricken from subsection 140 because it states the owner must physically request the additional sample. The change gives authority to the Commission to collect blood on every horse. Nothing else is changing. The shipping cost and testing services are still remaining the responsibility of the owner or trainer.

**DOCKET NO.
11-0411-1502**

Ms. Noyes stated that the change in this rule restructures the current split-sample testing rules with the intention of bringing additional clarity and detail for horse owners and trainers and to achieve consistency with procedures that are used by other horseracing jurisdictions. By defining specific rules and establishing reasonable deadlines to conduct testing, Idaho horse owners and trainers will have a clearer understanding of the process. Explanation of definitions, testing requests, time constraints, lab availability, shipping, unforeseen circumstances and interpretation of test results provide horsemen with information to make informed decisions. The Commission recognizes the need to standardize drug testing protocols by having Idaho horseracing rules coincide with industry standards. Horse owners and trainers race their horses at nine different tracks in Idaho as well as at tracks in the surrounding Western states. These rules are consistent with most of those racing jurisdictions.

Senator Davis asked for an explanation of subsection 160.04 - Unforeseen Circumstances. **Dr. Leibsle** responded that current rules do not provide for any unforeseen circumstances. They have tried to include how the stewards and the Commission would deal with those situations.

Senator Davis asked if there was a backup generator or delivery system to preserve the blood samples in case of an incident. **Dr. Leibsle** answered, speaking only for Les Bois Park, that there is not a backup generator. If that is a concern, they could find a place to keep the samples with a secondary power source.

Senator Lakey asked if the testing request should be made formally and in writing and delivered to the stewards, is there a central address for them? The testing request also says it should "not be later than three business days after the trainer of the horse receives the written notice." How does the trainer get that notice?

Ms. Noyes explained that the stewards are on the racetrack from the beginning to the end of a meet. They notify the stewards by email or fax that there has been a "bad" test. The stewards then start their process for written notification to the owner and trainer.

Senator Lakey asked if there has ever been a problem with the owner or trainer saying they didn't get the notice. **Ms. Noyes** said she has not seen that happen. The stewards not only contact the owner or trainer, they contact the Commission, who immediately sends a notice out by certified mail.

Senator Siddoway asked if there are in-state labs. **Ms. Noyes** stated that there are no in-state labs.

Vice Chairman Lodge asked if blood samples are taken from every horse in every race. What is the cost and the number of CCs (cubic centimeters) required and where is the blood drawn from? **Dr. Leibsle** explained that, typically, four blood tubes, 10 CCs each, are collected from every winner of every race. Three are sent to the primary lab where they spin down and freeze one tube and store it on-site. He says the safest place to draw from is the horse's neck. **Ms. Noyes** stated that the cost to process the blood samples is \$52 for each sample.

Senator Hill asked if the rules dealing with instant horseracing are under the purview of the Commission and if so, where are they being repealed? **Ms. Noyes** said they are under the Commission, but at this time she has not been told to repeal them. **Senator Hill** indicated that the Legislature had required those rules to be repealed. **Ms. Noyes** explained that, as management assistant, she waits for instructions on what steps to take. No one has instructed her to take that step.

MOTION: **Vice Chairman Lodge** moved to approve **Docket Nos. 11-0406-1501, 11-0411-1501 and 11-0411-1502**. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

IDAPA 31 - Idaho Public Utilities Commission (PUC)

31.11.01 Safety and Accident Reporting Rules for Utilities Regulated by the PUC

DOCKET NO.
31-1101-1501

Paul Kjellander, Commissioner, Idaho Public Utilities Commission, explained that, after discussions with the Division of Building and Safety (Building and Safety) and others, they are requesting that the Committee adopt Docket 31-1101-1501 except that they reject and remove codified subsections 202 and 203. It makes more sense to have Building and Safety deal with those rule sets. With this change, in the future, both entities will be working under the same set of rules.

Senator Stennett asked if, by rejecting 202 and 203, there is something still in place that would cover those items. **Mr. Kjellander** provided some historical information and explained the timing issues in meeting code requirements that have occurred. Utilities are a smaller pool than contractors, and it makes more sense for Building and Safety to take care of these sections. The majority of the changes are minor and won't have a significant impact.

MOTION: **Senator Hill** moved to approve **Docket 31-1101-1501 except to reject and remove codified sections 202 and 203**. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

Senator Davis asked if Dennis Stevenson would yield to a question about the State Racing Commission. **Senator Davis** said that research shows that prior to the Idaho Supreme Court ruling, the Racing Commission had began negotiated rulemaking regarding where instant horseracing could occur. **Mr. Stevenson** agreed. **Senator Davis** asked if, after the Supreme Court ruling, there was enough time for the Racing Commission to have promulgated rules repealing the instant horseracing rules? **Mr. Stevenson** said he was certain the Racing Commission could have promulgated a temporary rule to remove those sections. **Senator Davis** asked if they used pending rulemaking, was there sufficient time for the Racing Commission to promulgate and submit those rules to the Legislature for review? **Mr. Stevenson** was not exactly certain when the Supreme Court decision was made, but the submission deadline for proposed rulemaking is the end of August. That puts those proposed rules into the October bulletin, which allows time for public hearings before review by the Legislature.

31.71.03 Railroad Safety and Accident Reporting Rules

DOCKET NO. 31-7103-1501 **Mr. Kjellander** stated that they are essentially adopting, by reference, the update to the federal rules. The most interesting change is dealing with ethanol alcohol, which is also the alcohol in whiskey. Some of the designations will be changed.

MOTION: **Senator Winder** moved to approve **Docket 31-7103-1501**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 9:02 a.m.

Senator McKenzie, Chair

Twyla Melton, Secretary