

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 28, 2022

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Guthrie, Senators Winder, Anthon, Harris, Heider, Stennett, and Burgoyne

ABSENT/ EXCUSED: Senator Lee

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 8:00 a.m.

GUBERNATORIAL APPOINTMENT: **THE GUBERNATORIAL APPOINTMENT** of John Chatburn to the Public Utilities Commission (PUC).

John Chatburn stated he was born and raised in Idaho and worked for the State for 25 years. The last years were in the Governor's Office of Energy and then the Office of Energy and Mineral Resources with a focus on energy projects, and regional and national energy issues. **Mr. Chatburn** stated his interest in the PUC because he believed it was extremely important to examine regulation of the State's utilities so that all of the citizens see just and reasonable prices for energy and other utility services.

Senator Burgoyne disclosed he had expressed an interest in the PUC. He asked Mr. Chatburn what his views were on alternative energy resources, specifically, water users concerns in the promotion of low head hydro projects as well as wind resources. **Senator Burgoyne** asked Mr. Chatburn how he viewed the controversy of the legacy utilities. **Mr. Chatburn** responded that he viewed the activities the Commission undertook on regulation or any type of energy should be focused on ensuring the actions did not unduly increase the cost to Idaho consumers.

Senator Stennett referred to a personal experience. She asked Mr. Chatburn how he envisioned the PUC shepherding things beyond what Idaho Power and Hydro provided. What other forms of utility could be helpful as far as alternative energies; how would they be more efficient, and how is the capability of offering a diverse amount of utility and power to the state beyond one mechanism. **Mr. Chatburn** responded that the solar issue was not a function of the PUC but was regulatory under the Idaho Division of Occupational or Professional Licenses.

Chairwoman Lodge thanked Mr. Chatburn for his years of service for the State and the environmental species issues. She then welcomed Senator Skip Smyser.

GUBERNATORIAL APPOINTMENT: **THE GUBERNATORIAL APPOINTMENT** of Charles "Skip" Smyser to the Idaho Lottery Commission (Lottery).

Skip Smyser stated he was a former Senator from Parma, Idaho, who served on the ILC when implementing the lottery was brought before it for placement

on the ballot for the people of the State of Idaho to consider. The lottery was something he has been interested in for some time. The security elements, marketing elements, and professionalism had been very impressive. The return this year was \$72.5 million to the State of Idaho, most of which went to the schools. The Lottery manages a number of activities throughout the State that people are not aware of.

Senator Winder thanked Senator Smyser for volunteering to give his time to the State and people of Idaho. He asked about the expansion of the Powerball into some foreign countries and if there were ongoing negotiations. **Mr. Smyser** gave an overview of what was occurring in this area. Idaho Statute would require approval to allow Idaho to participate in the Powerball if Australia and the United Kingdom were added to the Powerball. The only country currently allowed is Canada and the provinces thereof. There may be a bill coming forward this year asking for the United Kingdom and Australia to be approved. Losing the Powerball would be devastating to the lottery and to Idaho because of its contribution to schools, and it is the most successful game in the State.

Chairwoman Lodge commented that she designed and saw three libraries built in Caldwell using lottery money. She stated her appreciation and that the kids in Caldwell appreciated having libraries with media centers in them. Losing Powerball would hurt schools, retailers, and Idahoans.

Chairwoman Lodge announced that voting on the Gubernatorial Appointments would take place at the next meeting.

HCR 28

STATING FINDINGS OF THE LEGISLATURE to honor Harry Fox LeMoyne for his service to the United States and the State of Idaho.

Senator Heider described Harry Fox LeMoyne as someone he knew well in Twin Falls, Idaho. Mr. LeMoyne was born on August 21, 1918 and passed away August 9, 2021 at the age of 102. He served in the Army Air Corps from 1941 to 1945 and flew 47 fighters over 60 combat missions escorting bombers on their way through Europe. Although he was never shot down, there were several close calls, one where a 20 millimeter shell knocked the canopy off the plane and he continued flying the plane to England. Mr. LeMoyne was awarded the Distinguished Flying Cross and the Purple Heart. He was inducted into the Southern Idaho Livestock Hall of Fame. He began his real estate career in 1953 selling farms and ranches as well as working in the County Assessor's office as an appraiser. He retired from real estate in 2016 after 63 years in business. This resolution honors the long life of Harry LeMoyne and his steadfast service to the United States and the State of Idaho. **Senator Heider** added that Mr. LeMoyne was a wonderful person and a good friend; one who deserves this honor.

Senator Stennett stated she had the pleasure of dealing with the LeMoyne family and was impressed by them. She noted that the SOP has his name as Henry but the bill has it as Harry. **Senator Heider** said that his name was Harry but people in Twin Falls called him Henry LeMoyne.

MOTION:

Senator Harris moved to send **HCR 28** to the 10th Order of Business. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL:

Chairwoman Lodge passed the gavel to Vice Chairman Guthrie.

DOCKET NO. 15-0600-2100

IDAPA 15 - OFFICE OF THE GOVERNOR/ID MILITARY DIVISION - Notice of Omnibus Rulemaking - Proposed Rule - pages 196-211.

Lieutenant Colonel Lauren Tschamp, Idaho Air National Guard presented **Docket No. 15-0600-2100** which was the omnibus reauthorization of existing rules from the Idaho Military Division. There were two rules remaining on the docket and both had been previously reviewed and approved by the Legislature. There have been no changes to the rules this year.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 15-0600-2100**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 31-0000-2100 **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION** - Notice of Omnibus Rulemaking - Proposed Rule – pages 212-307.

Eric Anderson, President, Idaho Public Utilities Commission (PUC), introduced **Docket No. 31-0000-2100**. He stated that the rule chapters for the PUC were previously reviewed by the Legislature. There were no changes to the text of those rules. Chapters in the rules would be reviewed in future years to follow the governor's zero-based regulation.

MOTION: **Senator Stennett** moved to approve **Docket No. 31-0000-2100**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 31-0101-2101 **IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION** - Rules of Procedure of the Idaho Public Utilities Commission (New Chapter) - Proposed Rule - pages 308-356.

Eric Anderson, President, PUC, explained there had been some changes in **Docket 31-0101-2101**. The PUC shared the governor's goal to streamline the state's administrative rules to reduce the regulatory burden and red tape in accordance with the governor's executive order. **Mr. Anderson** said the PUC conducted negotiated rulemaking this last year for its rules and procedures to make the rules clearer and less burdensome. The red-lined copy shows the changes made. Rules were removed that were found to be redundant and an idle code was removed, as well as duplications. He said they also removed references to outmoded technology. **Mr. Anderson** stated the rules had been simplified, streamlined, and corrected any drafting errors. Currently, the PUC has 60 open dockets pending: 30 electric, 11 telecom, 5 water, 5 gas, and 5 others which would be railroad and other things they regulate. He said the PUC feels strongly that thoughtfully and clearly written rules of procedure for contested cases are both necessary and beneficial for the public. The PUC rules and procedures provide a roadmap to fair adjudication of all cases removing procedural doubt for participants. The goal was to strive to make the rules clear and as usable as possible for the public so they can participate in all the proceedings.

MOTION: **Senator Heider** moved to approve **Docket No. 31-0101-2101**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 15-1001-2100F **IDAPA 15 - OFFICE OF THE GOVERNOR/ID STATE LIQUOR DIVISION** - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule - pages 62-72.

Tony Faraca, Idaho State Liquor Division, presented **Docket 15-1001-2100F** and explained that the rules were previously reviewed by the Legislature and nothing changed since the last review. He requested the support of the Committee.

DISCUSSION: **Senator Anthon** noted there has been a number of issues brought to the Legislature regarding the acquiring, use, and enforcement of liquor licenses and asked the Committee to allow a little more time to review the rules and how they correspond to statute. He noted he did not have any particular opposition to Mr. Faraca's presentation but more time was needed.

Senator Burgoyne agreed with Senator Anthon. The liquor statute is very antiquated and reviewing the rules would be a good idea.

MOTION: **Senator Anthon** moved to hold **Docket No. 15-1001-2100F** in Committee and that it be brought back to Committee at the call of the chair. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 52-0103-2100F **IDAPA 52 - IDAHO STATE LOTTERY COMMISSION** - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule - pages 123-173.

Becky Schroeder Chief Operating Officer and Rules Review Officer for the Idaho State Lottery (Lottery) introduced Jeff Anderson, Director of the Lottery. **Ms. Schroeder** explained that **Docket No. 52-0103-2100F** was the omnibus rulemaking for the adoption of fee rules for the Lottery. They covered Rules Governing Operations of the Lottery, subchapters A and B, and subchapter C which covers Charitable Gaming Rules of the Lottery. These were existing fee rules that had been previously reviewed by the Legislature during previous sessions. Nothing changed since those reviews. **Ms. Schroeder** asked for the Committee's support of this rule docket.

MOTION: **Senator Harris** moved to approve **Docket No. 52-0103-2100F**. **Chairwoman Lodge** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 45-0101-2100 **IDAPA 45 - IDAHO HUMAN RIGHTS COMMISSION** - Notice of Omnibus Rulemaking - Proposed Rule - pages 424-429.

Benjamin Earwicker, Administrator & Custodian of Records and Rules Review Officer, Idaho Human Rights Commission (IHRC), presented **Docket No. 45-0101-2100**. He stated the existing rules were previously reviewed and approved by the Legislature and there were no proposed changes.

DISCUSSION: **Senator Burgoyne** referred to a recent U. S. Supreme Court case regarding sex discrimination and what constituted sex discrimination as related to sexual orientation and gender identity discrimination. This would be considered sex discrimination at the federal level under Title Seven of the Civil Rights Act of 1964. He asked if the IHRC adopted any rules to indicate whether or not that decision will be the interpretation followed by the IHRC. **Mr. Earwicker** confirmed that Senator Burgoyne was referring to the 2020 Bostock v. Clayton County case (Bostock) and noted that case was relevant to federal law which changes and expands the definition of what constitutes sex discrimination under Title Seven of the Civil Rights Act according to the IHRC's rules. The IHRC had not entertained any activity or motions to adopt or amend its rules with regard to Bostock. However, in both rule and statute, there was a provision that the IHRC construes state law in light of federal statute and federal guidance. Although the Supreme Court decision was not binding on state law or the rules of the IHRC, they looked to federal statute in the interpretation of the Idaho Human Rights Act.

MOTION: **Chairwoman Lodge** moved to approve **Docket No. 45-0101-2100**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Guthrie passed the gavel to Chairwoman Lodge.

ADJOURNED: There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 8:40 a.m.

Senator Lodge, Chair

Twyla Melton, Secretary