

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 19, 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.

HCR 42 STATING FINDINGS OF THE LEGISLATURE professional football player Matt Paradis on winning the fiftieth Super Bowl football championship.

Senator Lee distributed a picture of Matt Paradis to the Committee and explained that **HCR 42** honors the Idahoan and Denver Bronco: the team recently won the fiftieth Superbowl. This resolution is not only about football, but about celebrating a great Idaho man from Council who grew up logging and ranching. Matt went from an eight- man football team in Council to walk-on at Boise State where he won an academic scholarship not a football scholarship. He was drafted in the sixth round by the Denver Broncos, and the following year he started every game with Peyton Manning. **Senator Lee** closed by stating what an honor it is to bring **HCR 42** to the Committee.

Senator Winder asked whether anyone has been approached to honor Jordan Gross of Fruitland. **Senator Lee** responded that no one has, but she appreciated the suggestion and expressed her excitement at the prospect of honoring Jordan Gross, another great football player from Idaho, in the future.

Senator Buckner-Webb commented on her excitement for the Paradis family and the community of Council.

MOTION: **Senator Buckner-Webb** moved to send **HCR 42** to the floor with a **do pass** recommendation. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 24548 UNANIMOUS CONSENT REQUEST from the Resources and Environment Committee relating to an independent entity to carry out drawings for tags.

Senator Bracket explained that **RS 24548** will replace S 1305, which addresses suggestions and concerns of the Fish and Game Department.

MOTION: **Senator Hill** moved to send **RS 24548** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 24459C2 UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee to imposing a fine in certain instances.

Chairman McKenzie introduced **Mark Estess**, Eiguren Ellis Public Policy, who was speaking on behalf of the Idaho Bail Coalition, a trade coalition representing bail agents across the State of Idaho. The coalition advocates on public policy issues on

behalf of the commercial bail industry as well as provides education courses for all licensed bail agents, all of whom are regulated by the Department of Insurance.

The purpose of the legislation is to address a problem initially reported by the Kootenai County Sheriff's Office to the Department of Insurance regarding bail agent solicitation of incarcerated inmates who were being paid referral fees. Under current law, the Department of Insurance does not have the regulatory authority to impose penalties on licensed bail agents and their employees who are engaged in this type of conduct. The RS has been drafted in a way that addresses the concerns raised by stakeholders while at the same time ensuring the language provides the authority to the Department of Insurance to impose a fine on a bail agent and/or suspend or revoke a bail agent's license when certain conduct occurs. The RS has broad support from the law enforcement community and the Department of Insurance, all of whom were involved in the drafting process.

Senator Davis asked if the reason for the late introduction of the bill was due to working out the language with the stake-holders in time for an introduction before the 36th Day deadline. **Mr. Estess** agreed. There was some language that could be construed as overly broad related to the initial introduction so they developed wording that is more tailored to meet the specific requirements of the Department's regulatory authority.

MOTION: **Senator Siddoway** moved to send **RS 24459C2** to print and return to the germane committee. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 24531 UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee related to an optional health savings program.

Senator Thayne explained that this legislation has to do with an optional health savings account that would be offered to State employees beginning in July 2017. The Department of Administration, as the administering agency, requested that an additional line be added.

MOTION: **Senator Hill** moved to send **RS 24531** to print. **Senator Lakey** seconded the motion. The motion passed by **voice vote**.

RS 24295 **Kelli Brassfield**, Idaho Association of Counties, explained that under current law, whenever a county takes over a tax deed, the property is auctioned off and any leftover funds are called excess proceeds. The owners or parties of interest are notified to see where the excess proceeds should go. This legislation would remove the requirement of the second notification and transfer the responsibility of the excess proceeds to the Idaho State Treasurer's Office. This legislation intends to streamline the process and utilize the expertise and technology available at the Idaho State Treasurer's Office.

Senator Davis asked for the reason for the late introduction. **Ms. Brassfield** replied that it took awhile to organize this piece of legislation. **Senator Siddoway** interjected, stating that the person who brought this legislation from the association had health problems in her family. Thinking there would be a quick resolution, the legislation was held; ultimately it was passed on to the association. He took responsibility, apologizing for the late print hearing.

MOTION: **Senator Siddoway** moved to send **RS 24295** to print. **Senator Lodge** seconded the motion. The motion was approved by **voice vote**.

RS 24535 UNANIMOUS CONSENT REQUEST from the Local Government and Tax Committee related to the conveyance of certain properties.

Neil Colwell presented **RS 24535** on behalf of Avista Corporation. **Mr. Colwell** stated that the legislation has to do with a legal conundrum brought up by counties

when they sell property acquired under a tax deed. He stated that the issue revolves around whether easements are transferred when sales are made by the counties. Disagreements are related to encumbrances versus easements. They are attempting to clarify that easements transfer when the county makes a property sale just as they would for any other property owner.

Senator Lakey disclosed a possible conflict of interest in that his law partner is working on a case related to the issue, although he has not personally been involved in the case.

Senator Davis asked **Mr. Colwell** to explain the reason for the late introduction. **Mr. Colwell** explained that this issue has evolved over the last year and affects a large number of stakeholders including any party who can have an easement. The counties pulled the stakeholders together at the beginning of the session. There was considerable discussion regarding whether they should pursue a legislative solution at the time. There were current legal issues that needed to be appropriately resolved. In early January a subcommittee of legal minds was created to craft a solution that would be fair to all parties. Upon reaching a conclusion, **RS 24535** was the proposed solution.

MOTION: **Senator Winder** moved to send **RS 24535** to print and then to the germane committee. **Senator Siddoway** seconded the motion. The motion passed by **voice vote**.

RS 24557 RELATING TO THE IDAHO UNBORN INFANTS DIGNITY ACT regarding the disposition of organs and tissue.

Dave Ripley, Idaho Chooses Life, explained that the Idaho Unborn Infants Dignity Act is a broad response to disturbing revelations over the past six months regarding the treatment of pre-born children lost to an abortion. This legislation seeks to ensure that Idaho's pre-born children are not subjected to desecration after their deaths. **Mr. Ripley** emphasized that this bill does not restrict or even affect a woman's ability to obtain an abortion. To explain what **RS 24557** does do, **Mr. Ripley** asked permission to read from the bill starting on page 1, line 24, reading, "It continues to be the public policy of the state of Idaho to promote live childbirth over abortion. Permitting the sale, transfer, distribution or donation of the bodily remains of aborted infants, particularly for pecuniary gain, and the use of the remains of aborted infants for experimentation undermine that public policy as well as proper ethical standards of medical conduct." **Mr. Ripley** then explained that this legislation would prohibit the harvesting of organs or tissue from aborted babies. It would also prohibit human or animal experimentation using tissue or organs harvested from aborted babies. This bill ensures that mothers have the right to ensure that the remains of their deceased pre-born children are properly provided for. It would expand the provision of death certificates for mothers who have suffered a miscarriage. This legislation continues to allow for the donation of fetal organs and tissue in cases other than abortion, but only when the mother has given informed consent. Under the terms of the legislation, medical research can advance, but only under strict ethical standards of conduct. **Mr. Ripley** then asked the Committee to support the enactment of these safeguards of public decency and stated that it is imperative that Idaho reject any suggestion that a civilized society should seek to benefit from abortion or that any good can be wrought from abortion.

Senator Buckner-Webb asked **Mr. Ripley** whether he had talked to the Idaho Department of Health and Welfare's Bureau of Vital Records and Health Statistics (Vital Statistics), recalling that around 2009 there was some conversation about fetal death certificates; the people working in Vital Statistics opposed the idea of fetal death certificates because of unintended consequences. **Mr. Ripley** responded that this legislation allows the Idaho Department of Health and Welfare to create a procedure best suited to their practices. He further stated that current Idaho law

allows for death certificates for fetal death in case of stillbirth, which is 20 weeks or later. This legislation would allow for death certificates to be issued in the case of death earlier in the pregnancy. The primary purpose of death certificates is to acknowledge life and to comfort the parents of babies lost through miscarriage. **Mr. Ripley** stated that he didn't believe there were any legal consequences of issuing a death certificate other than to acknowledge that a death had occurred. **Senator Buckner-Webb** asked for clarification as to whether **Mr. Ripley** had or had not talked to Vital Statistics about this legislation. **Mr. Ripley** replied that he had not specifically talked with them.

Senator Stennett asked whether there was any piece of the legislation being presented that inadvertently covers what Idaho already has constitutionally as it pertains to rape and incest. She asked if this language is undoing anything as far as what we allow in current law for abortions in those instances. **Mr. Ripley** stated that this legislation has no effect upon the ability of a woman to obtain an abortion in any circumstance. Rather, it addresses what happens after the abortion with the remains of the baby. There are certain outlines of procedures and strengthening of basic concepts of decency in which a baby's remains are treated as any other human being's remains would be treated. **Senator Stennett** asked if this legislation meant that in any instance where an abortion happens, the remains not go toward science. She pointed out that **Mr. Ripley** is talking about treating unborn babies in the same fashion as adults. Adults donate parts and say we want to be on a donor list after passing; she requested clarification on this point. **Mr. Ripley** replied that this legislation would, in the case of miscarriage or stillbirth, protect the ability of the mother or parents to decide whether they want to donate the organs or tissue under the strict guidelines of informed consent. In the cases of abortion, however, this legislation would prohibit that transfer.

Senator Siddoway referred to page 3, 39-9306, where it states that no person can transfer or donate the remains of an aborted child. He asked if he or a member of his family is an organ donor and had the misfortune of losing a child before it was born, and the mother chose to donate an organ for another child that needed a new heart, kidney, eye, etc., does this bill restrict that? He asked if 39-9306 is just for medically aborted babies or does it preclude a mother who lost a child during pregnancy from donating organs or tissue. **Mr. Ripley** replied that, no, this bill does not preclude a mother who suffered a miscarriage from donating organs or tissue.

Senator Hill, noted that he would want an answer to his question if the bill comes back to the Committee for a public hearing. He referred to page 3, 39-9307, and stated that subsection 2 and subsection 3 seem to be in conflict with each other. Subsection 2 says there won't be any restrictions regarding the identity of the recipients, which means their names can be made available in any way after the mother gives consent. In subsection three, the mother has to say that she has not been informed of the identity of the recipients. **Senator Hill** reiterated that he was giving **Mr. Ripley** a heads up to address the issue if the legislation comes back for a hearing before the Committee.

Senator Buckner-Webb asked whether the bill would force the State to deviate from safe handling of tissue and medical waste regulations and hospital protocols already in place. **Mr. Ripley** replied that this legislation would not cause any deviation. Rather, it would make certain that in cases of miscarriage and stillbirth, the institution, such as a hospital, has the right to make the decisions and determinations about how that baby's remains are disposed of, which would involve current law with respect to how that baby's body is dealt with and the internment of that body. **Senator Buckner-Webb** clarified that she is asking about an early-term abortion or miscarriage in which a dilate and curettage (D and C) is performed and whether **Mr. Ripley** has asked the state about the medical guidelines for safe handling of the

tissue. **Mr. Ripley** replied that this legislation does not affect those practices and for that reason he has not spoken with the State about those guidelines.

MOTION

Senator Lakey moved to send **RS 24557** to print. **Senator Hill** seconded the motion. **Senator Buckner-Webb** requested a roll call vote. **Senators McKenzie, Lodge, Davis, Hill, Winder, Siddoway and Lakey** voted aye; **Senators Stennett and Buckner-Webb** voted nay.

RS 24033

RELATING TO BINGO AND RAFFLES to provide revisions to multiple statutes to clarify charitable gaming laws and make requirements easier to find.

Angela Vitek, Charitable Gaming Coordinator, Idaho State Lottery Commission (Lottery), stated that she has been the Charitable Gaming Coordinator for about five years and works directly with the charitable organizations. Many of these charitable organizations are staffed with volunteers who have full-time jobs and families. Due to this, there is a high turnover in volunteers. **Ms. Vitek** said she receives between 10 and 15 phone calls daily with requests to describe the code and rules. Current code and rules are convoluted, hard to understand, and they contain things in subsections that don't apply to the rest of the subsection. That makes it hard for volunteers to know which key points to find to be compliant with the current code and rules. The Lottery and Attorney General's office decided to review and rearrange these codes and make them easier to read and understand. Certain sections were broken out into subsections to make the code clear. The Lottery also felt there were some changes that needed to be made to address concerns from the Attorney General's office.

Senator Davis stated that he sees where things have been moved around structurally and that makes more sense. There is a lot to like. **Senator Davis** questioned the definition of "charitable purpose." Is there any substantive difference in that definition on page 2 than what is on page 5? **Ms. Vitek** said there was not. They tried to match the definition with the Internal Revenue Service's (IRS) definition of "charitable purpose."

Senator Davis indicated that punctuation and wording issues make subpart 4 difficult to understand. He read subpart 4 up to the "or for" after "purchase" on line 18. He said that "or for" is a new definition of a "charitable purpose," and everything before that is a stand-alone. After the word "purpose" on line 18, it seems a semicolon belongs there. The "or for" is new and goes to the word "purposes" on line 21; "or" then becomes the next series that goes to line 22 where there should be a semicolon after "time". **Senator Davis** described this as segmenting. Then on line 23 after the word "petition," there should be a semicolon instead of a comma. For him, that makes the definition flow better. He asked if subpart 4 had those semicolons instead of commas, is that how the Lottery intends for the definition of "charitable purposes" to read? **Ms. Vitek** agreed.

Senator Davis turned to page 3, line 26, "nonprofit organization." It looks like this would impose a one-year organizational standard before there can be any participation. Why? **Ms. Vitek** replied that the IRS requires nonprofit organizations be in existence for one year; the objective is to have the Idaho nonprofits that do not report to the IRS have the same requirement so there would be some consistency.

Senator Davis turned to page 8 and asked why the language on lines 9-11 was being struck. **Ms. Vitek** answered that this suggestion came from the Attorney General's office; it referred to duplicate language.

Senator Davis asked why all of the language on pages 11-12 should be stricken. **Ms. Vitek** explained that current code has licensing fees and suspension revocation under the same section. She explained that those didn't necessarily belong together; therefore, they moved each of these into their own section with the same language.

Senator Hill referred to page 11, lines 7-8, stating a charitable organization with no history has to be in existence for at least one year. Why has a specific part been struck regarding organizations with no history that have to pay \$100, due to the fact that organizations must have a one-year history moving forward. **Ms. Vitek** responded that the application fee was moved up and can now be found on page 10, line 15 at the top of the licensing fee structure because it is a first-time application fee. Current code notes the application fee at the bottom of that section and then a renewal fee. Most organizations were confused with the first-time application fee and the renewal applications.

MOTION: **Senator Davis** moved to return **RS 24033** to the sponsor for the purpose of making the adjustments in the definitions section. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

Senator Hill commented that he didn't understand why the bill required a fee for charitable organizations with no history when organizations must have been in existence for at least one year to apply. **Ms. Vitek** clarified that the fee applies to charitable organizations that have held a raffle or a bingo game license. There is a licensure requirement system. If it's a low-stakes raffle or bingo, there is no need to apply. The \$100 application fee doesn't have anything to do with the organization's existence.

PAGE GRADUATION: **Chairman McKenzie** commented that one of his favorite times in Committee is when there is an opportunity to congratulate the Committee's Page. He asked Committee Page, Nina Harelson, to come to the podium. Chairman McKenzie stated that the Committee could not function smoothly without the help of his secretary, Twyla Melton, and her guidance to the pages. He commented that the Committee's Page was focused and the Committee is glad to have had her. **Chairman McKenzie** asked Nina to describe her experience and some surprises she encountered while serving the Committee.

Nina Harelson shared that she didn't know what she was getting into when she started as a page. Former Senator Frasure, her teacher, recommended the page program to her and she applied knowing she would learn from the experience. She stated that the experience was far better than anything she would have received in a classroom because she saw the real-life workings of the Legislature. She further explained that she learned the legislative process through watching bills pass from committees to their intended destination in the legislative process and saw how extensive the legislative process was.

Chairman McKenzie thanked Ms. Harelson for her work and presented her with a Certificate of Appreciation signed by each Committee member, a letter of recommendation signed by the Chairman and a gift from the Committee.

ADJOURNED: There being no further business, **Chairman McKenzie** adjourned the meeting at 8:45 a.m.

Senator McKenzie
Chair

Twyla Melton, Secretary

Assisted by Lizzie Kukla