

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 11, 2022

TIME: 8:00 A.M.

PLACE: Room WW55

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

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: **Chairwoman Lodge** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:07 a.m.

GUBERNATORIAL APPOINTMENT VOTE: **VOTE ON THE GUBERNATORIAL APPOINTMENT** of Joni Stright to the Idaho Lottery Commission.

MOTION: **Vice Chairman Guthrie** moved to send the Gubernatorial appointment of Joni Stright to the Idaho Lottery Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

S 1383 **Chairwoman Lodge** announced that consideration of **S 1383** would be continued to March 14, 2022.

RS 29788 **RELATING TO THE TERRORIST CONTROL ACT** to provide for domestic terrorism.

Senator Anthon stated the legislation would preclude parents being designated as domestic terrorists because they were unhappy with decisions made by their local school boards. He said Idaho Code was vague and did not adequately address the issue. He explained the proposed legislation would define domestic terrorism and provide that the domestic terrorist label could not be applied without due process.

MOTION: **Senator Harris** moved to send **RS 29788** to print. **Vice Chairman Guthrie** seconded the motion.

DISCUSSION: **Senator Burgoyne** said he would not support the motion because it was late in the session and the bill did not adequately address the issue.

VOICE VOTE: The motion to send **RS 29788** to print carried by **voice vote**. **Senator Burgoyne** requested that he be recorded as voting nay.

RS 29755C2 **UNANIMOUS CONSENT REQUEST** from the Senate Health and Welfare Committee related to the Extended Employment Services Program.

Senator Cook, District 30, introduced himself to the Committee. He reported the Senate Health and Welfare Committee previously considered two competing bills related to extended employment services (EES) for people with disabilities. He advised supporters of each bill collaborated and decided on the language of **RS 29755C2**. **Senator Cook** stated the bill would move the EES program from the Idaho Division of Vocational Rehabilitation to the Department of Health and Welfare's Division of Medicaid.

MOTION: **Senator Lee** moved to send **RS 29755C2** to print. **Senator Stennett** seconded the motion.

DISCUSSION: **Senator Lee** acknowledged the good work of the legislation's supporters. She hoped the bill addressed all concerns.

VOICE VOTE: The motion to send **RS 29755C2** to print carried by **voice vote**.

S 1375

RELATING TO VOTER IDENTIFICATION FOR ELECTIONS - to amend existing law to revise provisions regarding voter identification and registration.

Senator Souza, District 2, presented the bill. She referenced a 2005 report from the Carter-Baker Commission on Federal Election Reform. The report pointed out that absentee voting was susceptible to voter fraud and photo identification (ID) should be required to vote. **Senator Souza** stated absentee voting requirements in Canada, Mexico, and European countries were more restrictive than those of the United States. She presented polling data showing United States voters favored requiring photo identification for in person and absentee voting.

Senator Souza handed out a Heritage Foundation election integrity scorecard showing Idaho ranked 38th out of 50 states. She reviewed Idaho's low scores relating to ballot harvesting and voter identification. She said **S 1375** and **S 1376** would close gaps in Idaho voting laws. She reported that prior legislation addressed the issues of private election funding and election litigation practices.

Senator Souza said **S 1375** would (a) standardize the list of acceptable ID documents for voting and voter registration; (b) require a form of ID that proved United States citizenship; (c) require a voter who registers by mail or online to cast their first ballot in person; (d) provide for free state ID cards for anyone who could not afford one; and (e) specify signature, transmission, and clerical requirements for absentee ballots. She explained the fiscal impact related to the cost of free state ID cards and additional costs to the counties.

DISCUSSION: In response to questions from **Senator Stennett**, **Senator Souza** answered that the Division of Motor Vehicles (DMV) had no concerns about the legislation. She described the potential process for providing free state ID cards. **Brendan Floyd**, DMV Policy Analyst, Idaho Transportation Department (ITD), introduced himself to the Committee to respond. He advised a citizenship requirement was not set forth in the bill. He said the criteria to obtain either a driver's license or state ID card included proof of identity, date of birth, and lawful presence in the United States.

In response to questions from **Senator Burgoyne**, **Mr. Floyd** replied that the requirement to show lawful presence in the United States had been in place for a number of years. To get a Star Card, one must submit a birth certificate or United States passport, both of which would prove lawful presence as a United States citizen.

Senator Stennett asked if there were exceptions to the requirement that a newly registered voter must vote the first time in person. **Senator Souza** answered that the local elections office could send staff or a trained volunteer to assist a person who was physically unable to vote in person. She added the \$16,000 referenced in the fiscal note was an estimate of the cost to provide free state ID cards. It did not reflect any additional costs of staff time.

Senator Burgoyne inquired if the legislation was premised on the Idaho driver's license showing proof of citizenship. **Senator Souza** replied that a Star Card driver's license required proof of citizenship. She added a state ID card had similar requirements.

Senator Winder asked how many violations of issues on the Heritage Foundation scorecard actually occurred in Idaho in the last election. **Senator Souza** responded that Idaho had no regular audit procedure. She said one can't find problems if one doesn't look. She referenced a recent Wisconsin investigation of the 2020 election that identified multiple instances of election fraud. **Senator Winder** inquired how to send the message that the bill was only a way to prevent future problems without scaring people or implying the county clerks were negligent. **Senator Souza** replied the message should be that Idaho was confident in its ability to shore up its election system.

TESTIMONY:

Jason Snead, Executive Director, Honest Election Project, testified in support of **S 1375** because photo ID requirements and prohibitions on ballot harvesting were considered best practices to protect voters and their ballots and inspire election confidence.

The following testified in opposition to **S 1375**: Jennifer Beazer, Boise, Idaho; Hollie Conde, Conservation Voters for Idaho; Elinor Chehey, League of Women Voters of Idaho; Kathy Ackerman, Idaho Association of County Recorders and Clerks (IACRC); Josi Christensen, National Organization for Women; and Blake Youde, IACRC.

The Committee received written testimony in opposition to **S 1375** from Amy Cunningham, DisAbility Rights Idaho.

Issues and concerns that were addressed included:

- Requiring address disclosure and adding requirements to absentee balloting would discriminate against survivors of domestic violence.
- It would be dangerous and a cost prohibitive burden to send clerks to private homes to assist persons with mobility issues.
- There have been no problems identified with drop boxes in Idaho and all current dropboxes have video surveillance.
- The fiscal note did not account for the military members or students who would need state ID cards.
- The requirements are unnecessarily burdensome or impossible for military personnel and persons with disabilities.
- Having to prove citizenship is an unnecessary assault on citizens' voting rights and discriminates against new United States citizens.
- The bill sets up a process for provisional ballots which would delay election results.
- The free state ID card would only be free one time but does not expire, creating a financial burden if the voter moves to a new address.
- The requirement to provide the last four digits of an ID document could create problems for long-time voters.
- It would be expensive and difficult for the county clerks to implement the absentee envelope and ballot requirements.
- With so many election bills having been introduced, it would be better to establish an interim committee with stakeholder groups to take a systematic approach.
- There is already new legislation addressing post-election audits.

DISCUSSION: **Senator Stennett** commented that her constituents complained about long lines to vote in person, not about absentee ballot fraud. She asked Ms. Conde if she was aware of issues with absentee voting or ballot dropboxes. **Ms. Conde** replied the Secretary of State investigated and found no voter fraud in 2020, with more than 100,000 absentee ballots cast. She said ballot dropboxes were popular and generally monitored.

Senator Stennett asked Ms. Christensen if she would be concerned about returning as a poll worker or recruiting enough poll workers if the bill passed. **Ms. Christensen** replied that it would be scary to tell someone they can't vote. She expressed uncertainty about returning as a poll worker.

Senator Stennett asked Mr. Youde if eliminating dropboxes would compromise voting in rural areas. **Mr. Youde** answered that the first time in person voting requirement would be problematic for voters in remote areas and at care centers, as well as college students and military personnel.

Senator Souza concluded her remarks by stating the feedback from the clerks would have been helpful to receive earlier in the process. She reminded the Committee that the bill would make a consistent list of acceptable ID for voter registration and in person and absentee voting. She suggested some of the requirements could be simplified. **Senator Souza** clarified the bill did not establish a system of provisional ballots. She advised the bill established a process for use during the phase out of the personal affidavit so a ballot could be segregated until a voter's ID was verified. She asked the Committee to send the bill to the 14th Order of Business to address concerns.

MOTION: **Senator Anthon** moved to send **S 1375** to the 14th Order of Business for possible amendment. **Senator Heider** seconded the motion.

DISCUSSION: **Senator Anthon** agreed Idaho had done a good job with elections. He remarked that fact should not preclude the Legislature from taking action to improve voting security. Requiring ID to prove citizenship would not be unreasonable, he said.

Senator Burgoyne expressed his opinion that the bill would suppress voting. He noted the Republican vote in his district was somewhat inconsistent. He continued by saying everybody deserved the right to vote. He stated there was no problem in Idaho. He commented that the numerous election bills introduced this session undermined voter confidence in Idaho elections. He said he would vote no.

ROLL CALL VOTE: **Chairwoman Lodge** called for a roll call vote. **Senators Winder, Anthon, Harris, and Heider** voted aye. **Vice Chairman Guthrie, Senators Lee, Stennett, Burgoyne, and Chairwoman Lodge** voted nay. The motion failed.

S 1376 **RELATING TO ABSENTEE BALLOTS** to amend existing law to revise provisions regarding who may return an absentee ballot.

Senator Souza advised the bill would limit ballot harvesting. She said Idaho was one of a very few states without any law regulating or prohibiting the practice. She declared ballot harvesting increased the chance of election fraud. **Senator Souza** advised that video surveillance was ineffective in preventing fraud. The most secure way to deliver absentee ballots was by handing them to election workers. She explained delivery services such as the United States Postal Service would not be included in the six-ballot limitation on delivering absentee ballots.

TESTIMONY: The following testified in opposition to **S 1376**: Jennifer Beazer, Boise, Idaho; Alicia Abbott, Sandpoint, Idaho; Kendal Shaber, League of Women Voters Idaho; Hollie Conde, Conservation Voters for Idaho; and Kathy Ackerman, Idaho Association of County Recorders and Clerks.

The Committee received written testimony in opposition to **S 1376** from Amy Cunningham, DisAbility Rights Idaho.

Issues and concerns that were addressed included:

- Survivors of domestic violence would be placed at a disadvantage.
- The bill attempts to fix a problem that doesn't exist.
- Some voters find it neighborly to hand deliver their friends' ballots to the election office.
- The bill would negatively impact the elderly, large families, rural voters, and those with disabilities who need people to help them vote.
- The Carter-Baker report is obsolete.
- There are many unanswered questions about how to implement the bill's provisions.
- Many terms in the bill are undefined.
- The bill is inconsistent with the Legislative intent of the Idaho Treatment and Care of the Developmentally Disabled Act and the Americans with Disabilities Act.

Senator Souza noted that change was difficult to accept. She added some pushback was motivated by partisanship. She thanked the Committee for the time devoted to considering **S 1375** and **S 1376**.

MOTION:

Senator Burgoyne moved to hold **S 1376** in Committee. **Senator Stennett** seconded the motion.

DISCUSSION:

Senator Burgoyne commented that some of the testimony made an impact. He related an incident when he was campaigning and a Republican voter asked Senator Burgoyne to deliver his absentee ballot. **Senator Burgoyne** said he delivered the ballot because being neighborly was an Idaho value. He said he couldn't support the bill.

Senator Lee said she would support the motion. She complimented Senator Souza for her passion for election integrity and her efforts to improve the Idaho election process.

Chairwoman Lodge also thanked Senator Souza for raising awareness of election issues.

VOICE VOTE:

The motion to hold **S 1376** in Committee carried by **voice vote**.

Senator Winder promised to discuss coordinating a working group of the clerks and interested parties to address the issues collaboratively. He also offered to consult with House leadership about a possible interim committee.

Chairwoman Lodge announced that the remaining items on the agenda would be reordered.

S 1378

RELATING TO AN ENDANGERED MISSING PERSON ALERT to add to existing law to establish endangered missing person alerts and to provide criteria for activation of an alert.

Senator Lee presented the bill to create a comprehensive alert system for endangered and missing people. She handed out a flyer regarding a missing Fruitland child to illustrate the need for the legislation. She urged the Committee to move the legislation forward.

TESTIMONY: The following persons testified in support of **S 1378**: Lisa Anderson, Alzheimer's Association of Greater Idaho; Bernadette LaSarte, Coeur d'Alene Tribe; and Tai Simpson, Idaho Coalition Against Sexual and Domestic Violence.

Reasons given for support of the bill included:

- The new system will provide safety and security for people with Alzheimer's Disease or other dementias.
- The bill will further the cause of groups working on the issue of missing and murdered indigenous women.

Chairman Lodge recognized others present in the room who did not have time to testify in support of **S 1378**: Christine Pisani, Idaho Council on Developmental Disabilities; Francoise Cleveland, American Association of Retired Persons Idaho; Heather Cunningham, Idaho Council on Domestic Violence and Victim Assistance; and Jennifer Zielinski, Idaho Anti-Trafficking Coalition.

MOTION: **Vice Chairman Guthrie** moved to send **S 1378** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1372 **RELATING TO LANDS** to amend existing law to provide for legal representation.

Senator Harris stated the bill would remove any real or perceived conflict of interest between the Attorney General's Office and the State Board of Land Commissioners (Land Board) due to the AG's involvement as a Land Board member and counsel for the Land Board and Idaho Department of Lands (IDL). He stated **S 1372** would allow the IDL to hire independent general counsel and staff support. The Land Board would maintain discretion to use the AG's Office if needed. He noted other State agencies hired in-house counsel employees.

TESTIMONY: **Jonathan Oppenheimer**, Idaho Conservation League, testified in opposition to **S 1372** because the bill was unnecessary and rushed through without adequate study. He said it undermined the AG's constitutional authority.

DISCUSSION: **Senator Stennett** asked why the bill was needed and the cost to hire additional legal representation. **Adam Jarvis**, Analyst, Idaho Division of Financial Management, came to the podium to respond. **Mr. Jarvis** said he could not answer policy questions. He explained his cost calculations based on current AG staff assigned to the IDL and average salaries for the classified positions. He added that some litigation could be more expensive, possibly requiring a supplemental appropriation.

Senator Harris commented that the bill did not change the IDL's ability to hire outside counsel or undermine constitutional authority.

MOTION: **Senator Lee** moved to send **S 1372** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion.

DISCUSSION: **Vice Chairman Guthrie** stated he would support the motion but wanted to vet the bill further. He reserved the right to make a different vote on the floor.

VOICE VOTE: The motion to send **S 1372** to the floor with a **do pass** recommendation carried by **voice vote**. **Senators Burgoyne** and **Stennett** requested that they be recorded as voting nay.

S 1379 **RELATING TO PURCHASING BY POLITICAL SUBDIVISIONS** to amend existing law to revise provisions regarding procuring services or personal property.

Josh Scholer, Legal Extern to Senator Anthon, presented the legislation. He explained the bill would raise the thresholds at which competitive bidding would be required for political subdivision personal property purchases. He stated the increases were necessary to account for inflation.

MOTION:

Senator Harris moved to send **S 1379** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

Chairwoman Lodge announced that the remaining business on the Committee's agenda would be heard on Monday, March 14, 2022.

ADJOURNED:

There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 8:25 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary

Jeanne Jackson-Heim
Assistant Secretary