

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 26, 2024

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Lee, Toews, Wintrow, and Ruchti

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 Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:00 a.m.

WELCOME: **Chairman Guthrie** welcomed all to the Committee meeting.

RS 31450 **Relating to Public Officials.** **Senator Okuniewicz** stated that **RS 31450** enabled legislators to utilize public resources, such as e-mail and letterhead, when they advocated for or against an initiative or referendum in the same way they currently advocated for or against legislation. He stated that there was minimal fiscal impact because limits on postage costs already existed. He remarked that **RS 31450** enabled legislators to discuss initiatives and referenda while they served in their official capacity.

DISCUSSION: **Senator Harris** asked what brought on the need for the legislation. **Senator Okuniewicz** replied that when researching a past ballot measure, he had researched the Attorney General's office and discovered that he could not use an official letterhead and post the result online. He remarked that many legislators did this, and it seemed logical. He stated that legislators also used the official e-mail system. He remarked that **RS 31450** allowed legislators to use the same tools already used for law making.

Senator Bernt asked if **RS 31450** only applied to referenda and initiatives. **Senator Okuniewicz** replied that it did.

Senator Lee noted that **RS 31450** applied to the legislature and asked if it would be extended to other legislating bodies. **Senator Okuniewicz** stated that he had no problem with that philosophically, but was focused primarily on legislators.

MOTION: **Senator Toews** moved to send **RS 31450** to print. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

RS 31462 **Relating to Ballot Measures.** **Senator Okuniewicz** stated **RS 31462** dealt with paid signature gathering for initiatives and referenda. He remarked that people who were paid to gather signatures were required to inform citizens that they were paid. In addition, the petition prominently stated that the signature gatherer was receiving payment in exchange for circulating the petition. He remarked that the signature gatherer was required to wear a badge that identified them as a "Paid Petition Circulator". He remarked that these requirements existed in other states.

DISCUSSION: **Senator Wintrow** asked why **RS 31462** was important and what was his motivation for drafting the legislation. **Senator Okuniewicz** replied that citizens should be made aware if signature gatherers were paid, as opposed to participating in a grassroots effort.

MOTION: **Senator Lee** moved to send **RS 31462** to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

S 1364 **BEER - Amends existing law to remove and revise provisions regarding a brewer's license.** **Senator Wintrow** stated that she drafted **S 1364** together with Idaho Brewers United. She remarked that craft breweries were very important to the State. She stated that Idaho was the number one producer of barley and the number two producer of hops in the nation. She remarked that there were more than 100 craft breweries in Idaho, and that the industry contributed to a thriving economy. She stated that **S 1364** consolidated the brew pub and retail licenses into one license. She remarked that the cap of 30,000 barrels was removed provided the brewery had continuously maintained a physical presence and continuously brewed beer in Idaho for at least 5 years.

TESTIMONY: **Sheila Francis**, Executive Director, Idaho Brewers United, stated that the 30,000 barrel limit had existed since 1987, when 4 breweries operated in the State. She remarked that the ability to sell products at retail stimulated the creation of jobs and investments and provided tax revenue. She stated that technology, marketing, and transportation had changed, and 30,000 no longer seemed like a large limit. She remarked that the three tier system worked well and enabled small breweries to enter the market.

Jeremy Pisca, Attorney and Executive Director, Idaho Beer and Wine, stated that he supported **S 1364**. He remarked that Idaho regulated its beer and wine products through a three-tier system. He stated that this helped Idaho enforce laws and ensure that taxes were collected appropriately. He remarked that only 1 brewer was currently approaching the 30,000 barrel limit. He stated that brewers would not lose their license if they had been continuously operating and had a presence in Idaho for at least 5 years, and they had no administrative violations.

Written testimony from Mr. Pisca appears in Attachment 1. Written testimony submitted online appears in Attachment 2. A handout from Idaho Brewers United appears in Attachment 3.

DISCUSSION: **Senator Anthon** asked who lost with this legislation. **Mr. Pisca** replied that nobody lost. He remarked that if there was a loser, it was the beer distributors, but there was significant effort to find fair middle ground. **Mr. Pisca** stated that a few words had been missed in the legislation, and he recommended **S 1364** be sent to the Amending Order to state that the brew pub license and the retail license were combined into one retail license.

Pursuant to Senate Rule 39(H), **Senator Bernt** disclosed that he owned property currently in negotiation to have a brewery.

MOTION: **Senator Anthon** moved to send **S 1364** to the **14th Order of Business** for possible amendment. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

S 1275

PARTIES TO ACTIONS - Amends existing law to provide immunity for employers who allow or do not prohibit employees to lawfully carry firearms. **Senator Trakel** stated that in 2009 legislators passed a law that protected employers from liability when they allowed employees to store firearms in their vehicles or on the premises. **S 1275** added employer immunity when allowing employees to carry on their person. **Senator Trakel** stated that **S 1275** allowed employers to choose to have a policy to allow employees to carry firearms, and it gave them peace of mind when they chose not to abridge Second Amendment rights. He remarked that insurance would not skyrocket if employers were permitted to allow employees to carry firearms.

DISCUSSION:

Senator Ruchti stated that the language of **S 1275** was very broad. He asked if an employer would still get liability protection if they were reckless. **Senator Trakel** responded that if an employer was negligent, they would not be protected. He remarked that **S 1275** protected the employer if the employee was reckless. **Senator Ruchti** asked where the language was that addressed this in the legislation. **Senator Trakel** referenced Line 12. He stated that employers were not protected from negligence in **S 1275**.

Senator Wintrow remarked that the initial legislation addressed the storage of firearms in a vehicle. She stated that it was different to allow a firearm on business premises. She asked what happened if an employee had a firearm at work and it accidentally discharged and harmed someone. She stated that customers had an expectation of safety in a store. **Senator Trakel** replied that the employer would not be liable. He remarked that the employees must be held responsible for their actions. He stated it was difficult for a gun to discharge and the employee was negligent and disrespectful in that case.

Senator Wintrow asked that if the customer had an expectation of safety inside a business, wouldn't the employer be held liable if a customer was hurt. **Senator Trakel** responded that he supported private property rights. Correct handling of a firearm was a personal responsibility. He stated that if an employee was harmed in a robbery, then the employee, who was not allowed to carry, could have a similar claim against the employer. He stated that a business was not required to have a policy that allowed employees to carry.

Senator Guthrie read from **S 1275**. He remarked that he was comfortable with the language because it stated "if the claim arose out of the policy". He remarked that the business must have a policy or they would not be protected.

Senator Lee asked about line 12 and why there was no language about a "reasonable" policy. **Senator Trakel** responded gross negligence did not protect the employer. The policy must make sense. **Senator Lee** agreed, but stated that **S 1275** was a new policy that carved out that language. She was concerned that the legislation extended blanket immunity further than intended. **Senator Trakel** stated that **S 1275** permitted the lawful carrying of a firearm, with emphasis on the word lawful.

Chairman Guthrie asked if there was anyone present or online who wished to testify. There were none.

DISCUSSION:

Senator Harris stated that he was comfortable with the language in **S 1275** and remarked that the legislation provided protection for employers.

Senator Ruchti remarked that the language was vague and could be interpreted different ways. He believed that the language protected employers if they had a policy, regardless of the way the policy was written or adhered to. He suggested the addition of a line that stated that no action should be made against an employer where the claim arose from an action which violated the policy. He stated there was protection for the employer if the employee went beyond the policy. He stated that he was concerned with the legislature providing protection even if the employer did not take action against an erratic employee. He was concerned with the broad language.

Senator Wintrow stated that the 2009 legislation was only about firearm storage in a car. She stated that a car was private property. She remarked that it was very different to allow a firearm to be carried into a business's premises. She asked Senator Trakel if he had worked with retailers to develop **S 1275**. She was uncomfortable with granting broad immunity.

Senator Trakel remarked that he would forward all of the information he had gathered from the Legislative Services Office on the earlier legislation.

Chairman Guthrie stated that he considered **S 1275** a piece of private sector legislation. He remarked that a business could elect to have or not have a policy that allowed an employee to carry a firearm. He remarked that the language also referenced lawful carry.

Senator Winder stated that liability could not be eliminated if there was neglect or unreasonableness. He remarked that **S 1275** only applied to civil damages and not criminal damages. He stated open carry laws were significantly different than in 2009. Not all liability was eliminated.

MOTION:

Senator Harris moved to send **S 1275** to the floor with a **do pass** recommendation. **Senator Toews** seconded the motion. The motion carried by **voice vote**. **Senator Wintrow** and **Senator Ruchti** asked to be recorded as voting nay.

PASSED THE GAVEL:

Chairman Guthrie passed the gavel to Vice Chairman Bernt.

S 1371

ELECTIONS - Amends and adds to exiting law to revise provisions regarding presidential primaries, primary election dates, and candidate filing deadlines. **Senator Guthrie** stated that **S 1371** amended sections of Idaho election code to hold all primary elections, including the presidential primary, on the third Tuesday in April. He remarked that caucuses estranged certain groups of voters, including the military, people on church missions, and the elderly. He stated that the 2012 presidential caucus resulted in long lines and low voter turnout. He remarked that a higher turnout drove a better result. He remarked that **S 1371** saved \$2.7 million, which was the cost of holding the presidential primary on a different date than the other elections. He stated that down ticket races were important. He stated that **S 1371** compromised and provided consistency by setting the election date to the third Tuesday in April.

DISCUSSION:

Senator Anthon asked if there was anything in the legislation that prevented a party from having a caucus if they wanted to have a caucus. **Senator Guthrie** replied that there was not. **Senator Anthon** asked if a party could hold either a caucus or a primary election. **Senator Guthrie** replied that **S 1371** afforded them the latitude to do either.

Senator Wintrow asked if **S 1371** moved all elections, including legislative elections, to April. **Senator Guthrie** stated that it did. He remarked that different election dates were confusing and costly.

Senator Winder asked Senator Guthrie to outline the advantage of consolidating all elections to achieve a better turnout. **Senator Guthrie** replied that voter turnout was the main point. He remarked that school elections traditionally had low turnout. More participation was necessary. Combining elections achieved better voter turnout.

Senator Toews stated that he conducted research and found that most presidential primaries were decided by the end of March. He asked when the result could usually be predicted. **Senator Guthrie** replied that the answer was unknown. The date was speculative and depended on the particular election cycle. **Senator Toews** asked what the dates were historically. He asked what groups were consulted to develop the compromise date of April. **Senator Guthrie** stated he had consulted with a variety of groups.

Senator Ruchti asked if groups such as school districts and tax investors had expressed an opinion on **S 1371**. **Senator Guthrie** stated that he had talked with many affected groups. They did not oppose **S 1371**.

TESTIMONY:

Fred Birnbaum, Idaho Freedom Foundation, stated that he did not support **S 1371**. He remarked that moving the elections to April did not impact the presidential primary significantly, but it impacted the other elections. He stated that the April date was too close to the end of the legislative session. He agreed with consolidating elections, but he preferred a May date. He asked that **S 1371** be held in Committee.

DISCUSSION:

Senator Bernt inquired if Mr. Birnbaum supported primary elections occurring in May. **Mr. Birnbaum** replied that he did. He remarked that he preferred May over April. He stated that he wanted to wait and see how the 2024 caucus played out. He understood that Idaho's primary results would not have an impact if it was held in May.

Senator Winder stated that he was also concerned with the earlier election date because it left little time to campaign. He remarked that voters were disenfranchised by the caucus. He asked if Mr. Birnbaum had any solutions. **Mr. Birnbaum** replied that he had a bias to saving money and consolidating elections. He remarked that Iowa and New Hampshire had made the primary an industry. He stated that he wanted consolidation and supported the May date.

Senator Winder stated that many people believed they were voting for the President in the primary. He asked if it would be beneficial to educate the voters about the primary process and election process. **Mr. Birnbaum** replied that coverage of the presidential primary during the regular election session could smother the other election candidates and topics. **Senator Winder** asked if Mr. Birnbaum supported a preferential vote in the primary election, whether it was in April or May. **Mr. Birnbaum** replied that he needed to think about that.

TESTIMONY:

Maria Nate, Idaho GOP (Party), remarked that she was surprised by **S 1371** and did not support it. She remarked that **S 1371** completely upended the primary system. She remarked that the Idaho GOP was the largest stakeholder, and they were not involved in crafting **S 1371**. She stated that moving the presidential primary was expensive and caused confusion. She preferred the presidential primary date in March.

DISCUSSION:

Senator Lee asked why the sponsor would reach out to Ms. Nate if she had clearly stated that she only supported a March date. She remarked that an effort was made in 2023 to consolidate election dates. **Ms. Nate** replied that she did not know because the Idaho GOP was never consulted. **Senator Lee** asked if Ms. Nate was offering any date other than March. **Ms. Nate** replied that the Idaho GOP wanted to have a say in the presidential primary process. She remarked that she preferred the March date. She stated that the Idaho GOP had not been brought to the table. **Senator Lee** commented that this was the table. **Ms. Nate** replied that she should have been consulted as the bill was being crafted.

Senator Winder asked if the Idaho GOP supported the 2023 House bill to consolidate the primaries. **Ms. Nate** replied no, and there was an effort to undermine the caucus. She remarked that she wanted to look forward. **Senator Winder** stated that it was helpful in order to determine a path forward. He remarked that the legislation passed in the House, then the Senate found a flaw that it didn't allow a presidential candidate to file. He stated that flaw was corrected, but the bill died in a House committee. He stated that it was important to understand if the party supported last year's bill because then the legislators and the Idaho GOP could develop a plan for a consolidated primary.

Ms. Nate replied it was the legislators' Party as well. **Senator Winder** stated that it was the Republican Party. (Last year the Governor signed H 138 that passed both houses but inadvertently cancelled the March primary; S 1186, a trailer bill to restore the presidential primary in May, passed the Senate but died in the House State Affairs Committee). **Senator Winder** remarked that if the Party only supported a March date, then it was difficult to negotiate. He commented that this year's **S 1371** was a good faith effort. **Ms. Nate** responded there was not a good faith effort because there was no conversation with the Party. **Senator Winder** said it was important to meet with the Party to develop a solution prior to the next presidential election.

Senator Wintrow stated that if a discussion was held, then both parties should be at the table. She remarked that the Democratic Party preferred a presidential primary to encourage voter participation.

Senator Guthrie remarked he was encouraged by the discussion. He remarked that while May did provide the legislators more time to campaign, they were campaigning now based on their actions in the Legislature. He stated that he supported a May date, but in 2023 the Idaho GOP killed the legislation. He stated that April was a compromise date. The Idaho GOP was fixed on a March date, which was why he did not involve the Party. He stated that he wanted a presidential primary for the citizens of Idaho, and he wanted a path forward.

Senator Lee stated that the discussion was important and should move to the floor. She agreed that the Idaho GOP had stopped the discussion last year because they only supported a March date. She remarked that the discussion was important for all parties and all citizens.

Senator Wintrow stated that the Democratic Party preferred a presidential primary. She remarked that she did not support caucuses because they limited citizen participation. She remarked that the Legislature was not a campaign platform, but was for the good of Idaho citizens. She stated that bills should reflect policy priorities and not political campaigning.

Senator Toews remarked that he appreciated the goal of **S 1371**. He stated that the April date did not help Idaho gain relevance in the presidential primary process. He remarked that he preferred talking to constituents directly and did not support limiting campaign time.

Senator Ruchti remarked that the Legislature and parties worked on behalf of the people of Idaho. He stated that the primary process must be friendly to the military, and that the military made an effort to engage young members in the voting process. He stated that these young members lost the habit of voting since there was a caucus and they couldn't participate. He stated there was a need to get young people voting early in their lives, and **S 1371** helped in that effort.

Senator Anthon stated that he previously voted to keep the primary in March. He remarked that he participated in the 2012 caucus. He was impressed with the event, but realized caucuses were bad for voters. He stated that caucuses disenfranchised many groups due to their length and timing. He remarked that the date was up to the Party. He stated that a presidential primary increased participation. He stated that was what the voters wanted. He remarked that when the presidential primary was separated from the other elections, it cost the taxpayers \$2.7 million. He stated this money was better put to use on other projects. He remarked that a state-run election was preferable to a caucus. He remarked that he wanted as many people voting as possible, including the military members.

Senator Toews clarified that he preferred a primary election, but he did not believe an April primary was best for Idaho.

Senator Bernt stated he was a proponent of consolidating elections. He remarked that consolidation increased participation. He stated that he did not like the reference to a flawed bill. He believed there was an oversight in 2023, but he remarked that it was grounded in good intent. He stated that the discussion regarding 2023 was accurate. He preferred a May election but supported **S 1371**.

Senator Winder asked if **S 1371** would suffer the same fate as the 2023 legislation. **Senator Guthrie** replied that he had discussed **S 1371** with Representative Crane and he did not anticipate that.

MOTION:

Senator Lee moved to send **S 1371** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion. The motion carried by **voice vote**. **Senator Toews** asked to be recorded as voting nay.

ADJOURNED:

There being no further business at this time, **Vice Chairman Bernt** adjourned the meeting at 9:47 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary