

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 06, 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 31585 **A Concurrent Resolution Relating to the Rules of the Joint Finance-Appropriations Committee.** **Senator Winder** stated that the Legislature controlled the rules of the committees, and the rules previously adopted would preside over all meetings of the Joint Finance-Appropriations Committee held during the legislative session.

MOTION: **Senator Anthon** moved to send **RS 31585** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Anthon** moved to approve the Minutes of February 26, 2024. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

H 661 **ELECTIONS - Amends existing law to revise candidate filing deadlines for independent candidates for president and vice president.** **Phil McGrane**, Secretary of State, stated that **H 661** provided a new date by which independent candidates for the offices of President and Vice President of the United States of America qualified for the general election ballot. He remarked that the deadline was moved from March 15 to September 1 because independent candidates did not go through the primary process. He asked the Committee to move **H 661** quickly through the process due to legal concerns with the current timeline.

MOTION: **Senator Winder** moved to send **H 661** to the floor with a **do pass** recommendation. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

S 1374 **CONCEALED WEAPONS - Amends existing law to establish provisions regarding concealed weapons on certain property owned by the State of Idaho.** **Senator Herndon** stated that **S 1374** concerned the right to carry a firearm on certain public property in the State of Idaho and clarified the Legislature's policy following the 2023 decision of the Idaho Supreme Court in *Herndon v. Sandpoint*. He recommended that **S 1374** be sent to the 14th Order for possible amendment, as outlined in his handout (Attachment 1).

Senator Herndon proposed to modify Idaho Code § 18-3302 to clarify the right to carry a firearm on public property when that property was leased to a private group for an event. He stated that when the public had a perception that the event was public (no admission restriction, no ticket required, no barrier established), then the public had a right to carry a firearm during the event. He remarked that

an organization hosting the event could restrict the right to carry a firearm. He stated that if it appeared to a reasonable person that access was unrestricted, then the person had the right to carry their firearm into the event. He remarked that the private group that was renting the public property must carve out a restriction regarding the right to carry if firearms were not allowed at the event.

DISCUSSION: **Senator Wintrow** referenced page eight, lines six and seven. She asked why **S 1374** stated that all case law was superceded. She asked if all case law related to this topic was thrown out. **Senator Herndon** replied that *Herndon v. Sandpoint* was the first case that addressed Idaho Code § 18-3205, subsection 25. He remarked that the Legislature was aware of *Herndon v. Sandpoint* and **S 1374** expressed the will of the Legislature in light of that case.

Senator Wintrow stated that the First and Second Amendments were very different when related to public and private property. She asked about the distinction between the language "land owned" and "land occupied." **Senator Herndon** replied that **S 1374** did not impact courthouses, jails, universities, and similar properties.

TESTIMONY: **Tara Adams** stated that she was a survivor of the 2017 Las Vegas mass shooting. She stated that she had been personally impacted by guns in public spaces, and she opposed **S 1374**. She remarked that if the concert attendees brought guns into the Las Vegas event, then first responders would not have known who were the good guys and who were not. She stated that it was not clear in the concert arena where the shooting was coming from, and it was very chaotic. She asked who benefitted from **S 1374**.

Lynne Schneider testified in opposition to **S 1374**. She stated that in the Governor's State of the State address, Governor Little outlined the State's record growth, and this resulted in changes in public safety. She remarked that safety was a reason people came to Idaho. She stated that **S 1374** did not make families feel safer. She remarked that citizens had a right to attend events where guns were not allowed.

Kelly Packer, Executive Director, Association of Idaho Cities (AIC), stated that she supported the Second Amendment, but she opposed **S 1374**. She stated that AIC supported local control, and that **S 1374** removed municipalities' ability to regulate publicly owned properties, which were already regulated by federal and state law. She remarked that **S 1374** was a reaction to *Herndon v. Sandpoint*. She remarked that the Supreme Court decision should be respected. She stated that local communities balanced economic interest with the wellbeing of the community.

DISCUSSION: **Senator Wintrow** asked if some event planners or participants would not sign a contract or attend if firearms were allowed at the event. **Ms. Packer** replied that was often a condition of the contract. She remarked that there were other types of events, such as bike-a-thons and job fairs, that were difficult to delineate as private. **Senator Wintrow** asked if the cities wanted to make their own decisions about event specifics rather than having the State dictate the policy. **Ms. Packer** replied that they did. She remarked that cities were already regulated at the federal and state level.

Senator Toews remarked that **S 1374** made it clear when a firearm was allowed and when it was not. He stated that the majority of people who carried were law-abiding citizens, and that **S 1374** provided clarity. **Ms. Packer** replied that she agreed; however, there were events that occurred on public property that city wanted to restrict the ability to carry a firearm that did not fit the parameters defined in the legislation. **Senator Toews** asked if Ms. Packer would support the amended

language, "or for any other event which restricted access for which admission was charged or not." **Ms. Packer** replied that she wanted to see the language and make sure nothing else was missing.

TESTIMONY: **Erin Anderson**, Executive Director, Idaho Botanical Garden, stated that she opposed **S 1374**. She remarked that her primary concern was that **S 1374** limited private events. She stated that the Botanical Garden held many free events that drew large crowds, exposing them to risks and liability. She remarked that many artists refused to perform unless firearms were restricted. She stated that the Botanical Garden should be able to regulate its own events and recommended that **S 1374** be amended as proposed to restrict the event using a visual barrier. She desired a detailed definition of restricted access.

Kevin Bailey, Chief Executive Officer, Idaho Nonprofit Center, stated that he was concerned that **S 1374** removed the ability of a private business or nonprofit to restrict firearms from being allowed into an event. He remarked that **S 1374** impacted public safety and increased insurance costs. He remarked that nonprofits were placed in an ambiguous position when public space was leased. He recommended holding the bill in Committee or considering additional amendments that protected the rights of businesses and nonprofits.

DISCUSSION: **Senator Bernt** asked how **S 1374** affected an event such as Art in the Park, which was not clearly restricted. **Mr. Bailey** replied that **S 1374** created ambiguity. He remarked there were concerns regarding insurance liability, costs, and safety.

TESTIMONY: The following people testified in opposition to **S 1374**: **Alice Arambarri, Dianna David, Marsha Bravo, John Evans, Karen Hansen, and Kylie Castellaw**. The common themes were that **S 1374** was unnecessary and ambiguous. The legislation shifted the financial burden to the event host. The implications on event insurance were significant. The Idaho Supreme Court had settled the issue. The private business renting the public lands should be able to set the rules for the event. More definition around restricted access and reasonableness was needed. The State should not intrude on this issue.

Written testimony in opposition to **S 1374** appears in Attachment 2.

DISCUSSION: **Senator Anthon** asked Ms. Bravo if guns were permitted at Art in the Park. **Ms. Bravo** responded that she was not sure. She remarked that she did not like guns in public places.

Senator Herndon closed by stating that **S 1374** had the support of the National Rifle Association. He remarked that **S 1374** added clarity. He stated that events such as Art in the Park were not affected, and the reasonable person standard was the correct standard to use.

Senator Lee asked why the statement was needed that **S 1374** superseded all case law if nothing impacted *Herndon v. Sandpoint*. **Senator Herndon** replied that the Second Amendment Foundation recommended the language because the courts understood that their opinion was incorporated into the legislation. **Senator Lee** asked what case law was included in this broad statement. **Senator Herndon** replied that the language provided clarity for future cases. He stated that *Herndon v. Sandpoint* was a case of first impression.

Chairman Guthrie inquired if **S 1374** entangled itself with the *Herndon v. Sandpoint* case in any way. **Senator Herndon** replied no, that July 2024 was the effective date of the bill.

Senator Lee remarked that the Legislature had statutes that affected case law.

She suggested adding the language that recognized the court's clarity in *Herndon v. Sandpoint* specifically, rather than applying to all case law. **Senator Herndon** replied that he was not opposed to that. He recommended the change be made in the 14th Order of Business.

MOTION: **Senator Toews** moved to send **S 1374** to the 14th Order of Business for possible amendment. **Senator Anthon** seconded the motion.

DISCUSSION: **Senator Toews** remarked that he appreciated the testimony and recognized the importance of public safety. He stated that **S 1374** created a line so that law-abiding citizens knew when they could and could not carry a firearm. He supported **S 1374**.

Senator Bernt recognized that Senator Herndon was receptive to amendments. He remarked that he was concerned with the clarity of **S 1374**. He stated that local governments should have a stronger say in the legislation because it affected them the most.

SUBSTITUTE MOTION: **Senator Wintrow** moved to hold **S 1374** in Committee. The motion died for lack of a second.

DISCUSSION: **Senator Wintrow** stated that she was concerned about the language "all cases". She remarked that more clarity was necessary to define "restricted". She stated that there was dispute over the meaning of the Second Amendment. She remarked that citizens could respect the right to own guns, but should have places where they could go where guns were not present. She believed that those voices were being crowded out.

Senator Lee stated that she did not support the motion. She remarked that the issues brought forward by **S 1374** were important issues that should not be addressed in the 14th Order. She stated that the weighty issues should be open for public debate of the specific language, and not be relegated to the 14th Order.

MOTION: **Senator Toews** called for a roll call vote on the motion. **Chairman Guthrie and Senators Winder, Anthon, Harris, and Toews** voted aye. **Vice Chairman Bernt and Senators Lee and Wintrow** voted nay. The motion carried.

S 1314 **STATE TREASURER - Amends existing law to provide that idle moneys may be invested in physical gold and silver in certain instances and to provide for storage of physical gold and silver.** **Senator Hart** stated **S 1314** added physical gold and silver to the list of approved investments for the State Treasurer's Idaho Monies Fund, to be stored in the State of Idaho at a commercial bank, credit union, or one of two bullion storage facilities. He remarked that there were currently 12 items on the Idaho Monies Fund, and they all represented paper and moved as the economy fluctuated. He remarked that **S 1314** allowed the State Treasurer to diversify assets and protected against the risk of inflation and financial turmoil. He stated that the State Treasurer had advisory boards that established criteria for investment portfolios. He recommended that **S 1314** be sent to the 14th Order of Business to add language that there was no mandatory requirement for the State Treasurer to invest in gold and silver.

TESTIMONY: **Victor Sperandeo** stated that he had worked on Wall Street and authored several books regarding investing. He remarked that he understood markets and portfolios. He recommended mixed asset portfolios because they resulted in better market performance in volatile markets.

Bob Coleman, Owner, Idaho Armored Vault, stated that he was a registered investment advisor. He remarked that he supported **S 1314** because it allowed the State of Idaho to diversify assets. He stated that gold and silver investments were not correlated with the market. He remarked that Idaho Armored Vault had the capacity to store up to \$2.5 billion in assets, and that Idaho Armored Vault was insured by Lloyd's of London. He remarked that metals were secured and stored on a segregated basis.

DISCUSSION: **Senator Anthon** remarked that he was concerned that there were only 2 depositories in Idaho. He stated that he did not want there to be a perception of favoring vendors. **Mr. Coleman** replied that there were only 2 vendors in Idaho. He stated that there were high barriers to entry for depositories. **Senator Anthon** asked if a bank stored the bullion. **Mr. Coleman** remarked that banks outsourced depository functions to third party vendors. He stated that bank vaults had lower ratings. **Senator Anthon** asked if the Idaho depositories could purchase the gold and silver elsewhere and store it in Mr. Coleman's vault. **Mr. Coleman** replied that yes, Idaho Armored Vault provided storage and transport services. **Senator Anthon** asked if Idaho Armored Vault currently stored any gold other than the gold the company had sold itself. **Mr. Coleman** replied that it did.

Senator Winder referenced lines 39 through 43 and asked if there were any Idaho banks or credit unions that could store the gold. **Mr. Coleman** replied that banks outsourced their depositories and vaults.

Senator Hart stated that the volume of gold and silver that the State would invest was small. He remarked that other states were investing in gold and silver. He stated that the mining organizations supported **S 1314**. He recommended sending **S 1314** to the 14th Order to cap the allowable investment level.

Senator Bernt asked about the level of the proposed cap. **Senator Hart** replied it would be approximately 7.5 percent.

Senator Toews remarked that it made sense to diversify investments, and he supported **S 1314**.

Senator Lee stated that a cap on investments added confidence and clarification.

Senator Anthon stated that **S 1314** needed to be permissive. He remarked that he was concerned that **S 1314** favored certain businesses.

MOTION: **Senator Toews** moved to send **S 1314** to the 14th Order of Business for possible amendment. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

S 1394 **ELECTIONS - Amends and adds to existing law to revise provisions regarding voting machines, certain duties of election officials, and the payment of election expenses by counties and provides for public voting machine accuracy tests.** **Senator Bernt** stated that **S 1394** was an election security bill that prohibited voting systems in Idaho from being able to connect to the internet. He stated that **S 1394** made tampering with any voting system a felony. He remarked that only the Secretary of State had the authority to grant access to any voting system. He stated that **S 1394** cleaned up language in Idaho Code related to vote tally systems, and public logic and accuracy tests.

DISCUSSION: **Senator Wintrow** asked how voting machines currently worked. **Daniel Lee**, Voting Systems Specialist, replied that the machines used removable, encrypted hard drives in the tabulation machines. He remarked that the machines were "air gapped", meaning there were no internet connections. **Senator Wintrow** asked if there was a process for the clerks to deliver the hard drives to the clerk's office. **Mr. Lee** replied that each county had a specific way that votes were tabulated.

Senator Lee asked to clarify that there were no machines in the State of Idaho that were internet accessible. **Mr. Lee** replied that currently, different machines operated in different ways, but **S 1394** ensured that there were no internet connections used in future elections.

MOTION: **Senator Harris** moved to send **S 1394** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

H 574 **BOND AND LEVY ELECTIONS - Amends existing law to require certain disclosures in bond and levy elections that include information regarding state tax relief and when such state tax relief is set to expire.** **Representative Andrus** stated that **H 574** added transparency to State bond and levy official statements by clarifying what was dictated regarding State tax relief funds. He remarked that **H 574** ensured that citizens were aware of what they were voting for. He stated that only funds that were guaranteed in length and amount could be stated in the bond language and that **H 574** was about transparency.

DISCUSSION: **Senator Wintrow** asked why **H 574** used the language "guaranteed", while other legislation used the language "under current conditions." She asked how an amount could be guaranteed due to the number of variables involved. **Representative Andrus** stated that it was important to be clear to the citizens. He remarked that if the amount could not be guaranteed, then it should not be presented to the voters.

TESTIMONY: **Brian Stutzman** stated that **H 574** ensured truthfulness in the information presented on a ballot. He referenced Attachment 3 as evidence that voters were misled in a recent school bond in Pocatello. He remarked the bond ballot stated an amount to be provided each year for the length of the bond, but the information was not truthful because the level of funding was not guaranteed every single year. He stated the **H 574** did not prohibit taxing districts from discussing tax relief funds. He remarked that he supported **H 574**.

Quinn Perry, Deputy Director, Idaho School Boards Association, testified in opposition to **H 574**. She stated that it was impossible to guarantee an exact amount for State tax relief funds. She remarked that the Legislature gave mixed messages by adding new bond disclosure requirements every year. She stated that this caused confusion for practitioners in the field. She stated that the school districts wanted consistency and transparency.

DISCUSSION: **Senator Wintrow** asked why the language "guaranteed", rather than "current conditions", made it difficult for the school districts to display funding information on bond levy ballots. **Ms. Perry** replied that school district funding was based on attendance. She stated that there were variables, such as taxes and development, that made it difficult to guarantee funding levels.

Senator Anthon remarked that he understood there were many variables, and he heard Ms. Quinn state that she understood that as well. He remarked, however, that the ballot language in Attachment 3 did not mention uncertainty; rather, it implied that the funds were guaranteed. He asked why the ballot language was misleading. He recommended language that used the word "anticipated." **Ms Quinn** replied that there were many variables, and funding levels were not guaranteed. She remarked that additional clarity was necessary.

Senator Lee stated that she supported **H 574**. She asked why plain language was not placed on the ballot. She recommended that when public dollars were used, the ballot should be truthful, and any additional influence could be conducted by private citizens. **Ms. Perry** replied that not every district had an advocacy campaign. She remarked that it was confusing to voters when the ballot did not state what they were hearing from the advocacy campaigns. She remarked that **H 574** made it impossible to talk about any tax relief on a ballot moving forward.

TESTIMONY: **Halli Stone, Lydia Noble, and Heather Disselkoen** testified in support of **H 574**. The common themes were that assessed values on homes continually increased, and the school district used deceptive language to extract more tax dollars from property owners. The bond initiatives were deceptive. **H 574** was needed to ensure truthfulness and transparency.

Courtney Fisher, Director of Communications, Pocatello/Chubbuck School District, testified in opposition to **H 574**. She remarked that a local high school was destroyed by a fire, but the bond measure did not meet the threshold needed to pass, even though over 65 public meetings were conducted to discuss funding. She stated that she approached communications with the mind-set that transparency fostered accountability, trust, and informed decision making. She remarked that tax relief was intended to create a new funding stream for school facilities, while offsetting the cost at the local level.

DISCUSSION: **Senator Wintrow** asked Ms. Fisher how the funds were raised to fix the school. **Ms. Fisher** replied that bond language was being prepared for a May ballot.

Senator Ruchti asked how language was developed to be used for the voters. **Ms. Fisher** replied that the district worked with legal bond counsel. She remarked that tax relief did not alleviate the need to fund new school facilities.

DISCUSSION: **Representative Andrus** stated that ballot issues were about pass or fail. He remarked that tax relief was not necessarily a part of the ballot question. He stated that ballot initiatives needed to be truthful.

Senator Ruchti stated that he did not support **H 574**. He remarked that the Legislature added many requirements and increased complexity for the school districts. He remarked that he heard the frustration from the school boards. He stated that the Legislature had overreacted to many citizen complaints.

MOTION: **Senator Harris** moved to send **H 574** to the floor with a **do pass** recommendation. **Senator Toews** seconded the motion. The motion carried by **voice vote**. **Senator Wintrow** and **Senator Ruchi** asked to be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 10:04 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary