

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, March 11, 2015

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Stennett and Buckner-Webb

**ABSENT/ EXCUSED:** Senator Lakey

**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 8:07 a.m.

**S 1092** **Relating to Knives to Add a New Section for Consistency in Knife Regulation.**

**Senator Heider** explained that this bill deals with the consistency of knife regulation in the State under Chapter 33, Title 18. The State has primacy over knives because it is a Second Amendment right. Many states have enacted this legislation. **Senator Heider** introduced Todd Rathner, representing Knife Rights, to explain the bill.

**Mr. Rathner** explained that this is an issue of arms and the State's primacy over political subdivisions. When you have a fundamental human right, the State should be in control precluding local ordinances. **Mr. Rathner** stated that New York is a prime example of knife rights being regulated by local codes. The City of New York has prosecuted 60,000 people in the past 10 years over minor knife violations. Those prosecutions put felony violations on those individuals' records. Idaho is at a point where it can preempt cities and counties from regulating knife rights and avoid the problems other states have experienced.

Knives are mentioned in both the District of Columbia v. Heller and McDonald v. Chicago cases, which have been the primary Second Amendment cases in front of the United States Supreme Court. This legislation preempts cities and counties from regulating knife rights that are stricter than state law. The concern was, that many individuals such as outdoor enthusiasts, hunters and agricultural workers, carry knives for a variety of reasons. They should not have to worry about a local ordinance which could cause them problems.

**Senator Davis** spoke to a similar preemption statute on other weapons. **Senator McKenzie** answered that there is a firearms preemption in Idaho Code and that it is common in many other states. A number of years ago the National Rifle Association (NRA) started to work on firearm preemption legislation, and there are now approximately 35 states with a preemption that protects peoples' rights to keep and bear arms. Knives should have been included in that legislation. **Senator Davis** asked for clarification on why knives were not added to the current firearm preemption statute. **Senator Heider** replied that the Legislative Services Office wanted to handle knife preemption in a separate piece of legislation.

**Senator Siddoway** asked if a school district is a political subdivision. **Senator Heider** answered in the affirmative. This legislation will affect school districts and, in most cases, the districts, will be happy to allow the state law to supersede their law.

**Senator Stennett** asked if this legislation passes, then would schools, which are political subdivisions with their own knife laws, be preempted by the State. **Senator Davis** stated that it was his understanding that this legislation will bring knives in line with current state policy for other weapons. There is a federal statute that defines what students can do with weapons within a thousand feet of a school's borders. This bill will not impact that federal law. Furthermore, it doesn't suggest that the State is rewriting other State policy that might be in place regarding knives. The bill just states that the State of Idaho chooses to occupy this field rather than have a patchwork of policy around the State.

**Senator Siddoway** asked if this legislation will override the ability of a local school to restrict the carrying of knives on campus. **Senator Davis** responded that a school district would be limited to enforcing the state policy on knives. A political subdivision would include a school district, and they would not be able to write policy in this area just as they are currently unable to write policy related to guns.

**MOTION:** **Senator Davis** moved to send **S 1092** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Chairman McKenzie passed the gavel to Vice Chairman Lodge.

**RS 23824** **Relating to Controlled Substances to Revise and Define Definitions Related to "Cannabidiol Oil" (CBD oil).**

**Chairman McKenzie** provided some history on **RS 23824** and prior versions of the legislation. He stated that the original indications from the Governor's office was that they would support a limited CBD oil policy. He then reviewed other states' laws regarding the use of the oil. Proposed legislation was drafted following Utah's language but without their registration and tracking program. It was redrafted based on suggestions from the co-sponsors in a simple, straight forward form, and was presented to the Committee at which time major concerns were raised. The next version of the legislation focused on an affirmative defense; it would be the most restrictive in the nation. CBD oil would still be illegal and the entire burden would be placed on the parent to convince a jury that their need fit within the limitations. A revised version was written that addressed all the concerns, but then it was learned that the executive branch would not accept any version of the bill. The executive branch's position is to keep CBD oil illegal. However, they are in favor of an FDA study. They say CBD oil would create difficulty with the drug dogs and would require new laboratory equipment.

**Chairman McKenzie** stated that other conservative, Republican states have passed this type of a law and the "sky didn't fall". They could enforce their drug policy laws and still help the families that are affected. This was a way to reject medical marijuana but allow CBD oil.

With **RS 23824**, the concerns about the list of illnesses was addressed by adding that a written recommendation from a physician was required for the use of CBD oil.

**Senator Davis** asked if it is the intent to print **RS 23824** for the Friday meeting. **Chairman McKenzie** answered in the affirmative.

**MOTION:** **Senator Davis** moved to print **RS 23824**. **Senator Siddoway** seconded the motion.

**Senator Hill** remarked that the list is broad and he does not recognize all of the diseases mentioned. **Senator Lodge** voiced her concern with the inclusion of fibromyalgia because it is such a broad diagnosis. **Senator McKenzie** assured the Senators that the intent is to address these items and bring back legislation that the Committee could accept.

The motion carried by **voice vote**.

**PASSED THE GAVEL:**

Vice Chairman Lodge passed the gavel to Chairman McKenzie.

**RS 23793**

**A Unanimous Consent Request Relating to Municipal Corporations to Authorize Issuance of Certain Bonds to Provide for the Protection of Public Safety by the Fire and Police Departments.**

**Senator Siddoway** stated that Mr. Hammond, a former Senator, sent this common sense request to allow bonding for some police equipment.

**MOTION:**

**Senator Winder** moved to print **RS 23793**. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**Chairman McKenzie** stated it will be easier to address **H 90** and **H 91** together for testimony purposes.

**H 90**

**Relating to Transparent and Ethical Government to Create a New Title Transparent and Ethical Government.**

**H 91**

**Relating to the Public Records Act to Provide Correct Code References.**

**Cally Younger**, Governor's office, stated that **H 90** and **H 91** move the sections on existing public records, open meetings, ethics in government and prohibition against contracts with officers into a new title called Transparent and Ethical Government. This clear new title name, along with easy access, will direct the public to the statutes to hold their government accountable. This is a cut and paste of existing legislation, and it came from a group assembled by the Public Records Ombudsman. Currently, all of these statutes are located in Idaho Code.

**Ms. Younger** advised that **H 90** and **H 91** are linked. The legislation in **H 91** is just a cross-reference to update other codes.

**Senator Hill** remarked that he had recently searched the statute and there were differing definitions for a household. Have the issues of duplication been addressed by this legislation? **Ms. Younger** replied that households weren't addressed, this is just a cut and paste.

**Senator Davis** asked why a new title number had been created instead of putting this in Title 67. **Ms. Younger** answered that the task force wanted a new title with clear labeling.

**Jeremy Pisca**, attorney with Risch Pisca Law Firm, representing the Newspaper Association of Idaho (NAOI), spoke in support of this legislation. The NAOI is made up of all the daily and weekly newspapers in Idaho and participated in the task force. This is a consensus piece of legislation which was developed by a task force comprised of the Association of Counties, Association of Cities, Idaho Press Club, NAOI, Governor's office, Attorney General's office, and the Idaho Courts.

**Wayne Hoffman**, President, Idaho Freedom Foundation (IFF), spoke in support of the legislation. He echoed Mr. Pisca's remarks. The IFF deals with government transparency on a regular basis, and they receive calls from the public who want to engage with their local or state government but cannot find the information on public records or the open meeting law. This legislation codifies all the statutes into one place for easy access.

**Melissa Davlin**, Idaho Press Club, said they support the legislation.

**MOTION:**

**Senator Hill** moved to send **H 90** and **H 91** to the floor with a **do pass** recommendation. **Vice Chairman Lodge** seconded the motion. The motion carried by **voice vote**.

**RS 23801**

**A Senate Concurrent Resolution to Declare March 20 of Each Year as "YMCA Day" in Recognition of their Service to Idaho Citizens.**

**Senator Buckner-Webb** stated that this resolution provides an opportunity to celebrate the legacy of the Idaho State Alliance of YMCAs (YMCA). It offers an opportunity to honor the YMCA's commitment to enriching the lives of Idahoans. **RS 23801** acknowledges the unique role of the YMCA in developing robust programs for children, youth, seniors, individuals, families, therapeutic programs, and leadership development. **RS 23801** allows Idahoans to show their appreciation for the contributions of the YMCA. YMCA provides more than \$6 million in assistance to enable access and participation in all of its programs. **Senator Buckner-Webb** outlined the history of the first Boise YMCA.

**MOTION:** **Senator Stennett** moved to print **RS 23801**. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**S 1112** **Relating to Vacancies in State Office to Provide a Timetable to Fill a Vacancy and to Determine when an Office is Vacant.**

**Senator Davis** stated that this bill amends Idaho Code § 59-904 (c) and (e) regarding constitutional officers. Subpart (c) allows the Governor to fill appointments and vacancies to serve at the pleasure of the Governor. Subpart (e) provides that the appointments are made pursuant to this section and shall be submitted along with the letter of appointment for the advice and consent of the Senate.

The problem with the statute is, if an appointee's term expires after Sine Die, then a vacancy might not be picked up by the Governor's office. This omission allows the individual to continue to serve without confirmation by the Senate. If the Senate does not get a letter of appointment the following Legislative Session, there is nothing in the statute that precludes the appointee from continuing to serve in the position.

**MOTION:** **Senator Siddoway** moved to send **S 1112** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** **Chairman McKenzie** adjourned the meeting at 8:50 a.m.

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Senator McKenzie  
Chair

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Twyla Melton, Secretary

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Carol Deis, Assistant Secretary