

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 23, 2024

TIME: 8:00 A.M.

PLACE: Room WW55

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

**ABSENT/
EXCUSED:** Senator Anthon

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.

**MINUTES
APPROVAL:** **Senator Harris** moved to approve the Minutes of February 14, 2024. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
REAPPOINTMENT
VOTE:** **Committee vote on the Gubernatorial Reappointment of Susan D. Kerrick to the Idaho Lottery Commission.**

MOTION: **Senator Winder** moved to send the gubernatorial reappointment of Susan D. Kerrick to the Idaho Lottery Commission to the Senate with a recommendation that she be confirmed. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

RS 31395C1 **Relating to Concealed Weapons.** **Senator Herndon** stated that **RS 31395C1** replaced **S 1310** and amended Idaho Code § 18-3302 subsection 25. He remarked that **RS 31395C1** clarified policy regarding the ability to carry a firearm on certain public property following the *Herndon v. Sandpoint* Idaho Supreme Court decision in 2023. He stated that restrictions to concealed carry applied if a group rented a public park and the event was invitation-only and charged admission. He remarked that **S 1310** was ambiguous, and **RS 31395C1** had more specific language regarding concealed carry policy on certain public property.

MOTION: **Senator Toews** moved to send **RS 31395C1** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

RS 31486 **Relating to Naturopathic Doctor Licensing.** **Senator Lee** stated that **RS 31486** clarified language from previous bills regarding licensing requirements. She remarked that **RS 31486** clarified those requirements in statute.

MOTION: **Senator Winder** moved to send **RS 31486** to print. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

COVID-19 - States findings of the Legislature and authorizes the Legislative Council to establish a committee to complete a study of Idaho's response to the COVID-19 pandemic. Senator Foreman stated that **SCR 110** was a resolution that requested the appointment of a committee (committee) to investigate the response to the COVID-19 pandemic. He requested a study to discover information useful to the State planners, managers, and leaders if there was an experience similar to COVID-19 in the future. He remarked that the investigation did not point blame, but instead gathered information in case of another crisis.

Senator Foreman stated that during the pandemic, the Legislature enacted legislation that reiterated that the constitutional rights of Idahoans could not be suspended during an emergency, limited emergency powers of the Governor, stated the right to bear arms during an emergency, and limited the Governor from suspending or altering State code. He remarked that the Legislature could only admit or declare laws and declared that all jobs in Idaho were essential. The legislature also stated that any restrictions declared during an emergency could not be based on job type or classification.

Senator Foreman remarked that a comprehensive review about the response to the pandemic was not completed. He remarked that the review emphasized whether the U. S. Constitution, the State Constitution, and State code violated the rights of Idaho citizens during the pandemic.

DISCUSSION:

Senator Lee was concerned about the reference to constitutionality. She asked if the committee addressed the constitutionality of the pandemic. **Senator Foreman** stated that there shouldn't have been a question about whether it was constitutional or not. He remarked that there were some things done that weren't constitutional. He sympathized with the people who were in charge during this difficult time but felt rights should not have been violated.

Senator Lee asked how Senator Foreman would respond if the committee said everything done during the pandemic was constitutional. She remarked that if people were sure about their positions on the issue, then the committee wouldn't resolve anything. **Senator Foreman** responded that the results of the study created transparency and accountability. He stated that when first amendment rights were affected by a state of emergency, then an explanation was required.

Senator Wintrow asked how the committee would be able to get to the answers if legislators were asked to investigate. Legislators had their own ideas and philosophies and they were not investigators. She also asked about the statements in **SCR 110** about Boise and the Boise mayor and wondered why Idaho cities as a whole were not referenced. **Senator Foreman** stated that he hoped legislators would set aside their political beliefs in the investigation. He remarked that every Idaho city was affected. He stated that Boise was listed in the resolution because it was the largest city in Idaho.

Senator Wintrow responded that she felt that Boise was targeted by the language. She commented that a study did not resolve the issues. **Senator Foreman** remarked that every law in Idaho affected every city.

TESTIMONY: **Lynn Laird**, psychologist, stated that she supported **SCR 110**. She asked for unanimous support and felt this resolution was necessary. She stated that an after-action report on the State's reaction to the pandemic was critical, because the pandemic affected every person in the State. She remarked that the pandemic had a lasting impact on people.

DISCUSSION: **Senator Bernt** asked if the resolution was necessary or if they should ask the Governor's office to do the study. He remarked that he was not opposed to looking back at mistakes. **Ms. Laird** responded that the Legislature wasn't forced to do this study. She remarked that **SCR 110** formalized the process to look at the response of all levels of government to see what was done right and what was done wrong. She hoped that the committee would reach out to the community to hear their voices about the pandemic response.

Senator Lee asked what the reaction would be if the committee did all the right work and said that everything done in Idaho was constitutional. **Ms. Laird** stated that she would not agree with the result, but that wouldn't be the point. She stated that the point was to do the work. She asked them not to assume the outcome and the response of Idaho citizens.

DISCUSSION: **Senator Foreman** stated that the question was not whether the Legislature should do this, but what happened if it didn't. He stated that his constituents wanted the study for answers to questions and improvement for the future. **Senator Guthrie** remarked that he viewed the study as a reflection rather than an investigation. He stated that constitutionality was a matter of opinion and was at the discretion of the committee.

Senator Toews remarked that **SCR 110** was an important resolution. He remarked that the State needed to look back and analyze decisions to learn from them. He stated that his constituents wanted a study done, and that he was in support of **SCR 110**.

Senator Bernt asked why a resolution was needed if the Office of Performance Evaluations (OPE) usually completed these investigations. He asked if Senator Foreman had reached out to OPE about an investigation and what the response was. **Senator Foreman** responded that he did reach out and hadn't received a response. **Senator Bernt** stated that he was opposed to **SCR 110** because OPE completed similar investigations.

Senator Winder recommended that Senator Foreman contact the Joint Legislative Oversight Committee (JLOC) for a working group on a study of COVID-19. **Senator Toews** thanked Senator Winder for the offer of a working group and asked to be a part of it.

MOTION: **Senator Toews** moved to send **SCR 110** to the floor with a **do pass recommendation**. The motion died due to lack of a second.

H 496 **PROPERTY - Amends existing law to exempt federally recognized Indian tribes from the definition of "foreign government" such that certain restrictions regarding real property will not apply to them, and to include forest land as one of the kinds of property that a foreign government may not purchase.** **Senator Trakel** presented **H 496** as an amendment to legislation passed in 2023 that restricted the purchase of property by foreign governments. He stated that the Indian tribes in Idaho were overlooked when legislation passed last year. He remarked that **H 496** exempted Indian tribes from the definition of "foreign government", and included forest land as one of the kinds of property that couldn't be purchased.

DISCUSSION: **Senator Winder** commented that it was an unintentional oversight, and the fix was simple.

NOTE: Written testimony provided for **H 496** is contained in Attachment 1.

MOTION: **Senator Harris** moved to send **H 496** to floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

H 390 **CITY AND COUNTY OFFICERS - Amends existing law to authorize investigations and actions against city and county officers by the attorney general.** **Representative Skaug** stated that **H 390** amended Idaho code, and allowed investigations into the actions of county and city officials by the Attorney General's office. He remarked that **H 390** only related to elected city and county officials in criminal matters. He stated that **H 390** removed concerns of personal conflict from the investigations. He stated that civil investigations were removed from **H 390**.

DISCUSSION: **Senator Lee** asked if civil issues were dealt with in a different way because **H 390** only applied to criminal matters. **Representative Skaug** responded that this amendment only applied to criminal matters and civil matters were handled differently by each city.

Senator Ruchti stated that he thought this legislation gave too much power to one body, the Attorney General's office. He remarked that county prosecutors in the current system could say they had a conflict in a case and step out. He stated that **H 390** assumed that this wasn't happening with county prosecutors. He asked why **H 390** was necessary and why county prosecutors didn't use their current system. **Representative Skaug** replied that city employees were worried about issues brought forward because the prosecutors were in their employment circles. He further stated that there were many times that employees chose not to act.

Senator Winder stated that he understood that **H 390** allowed the Attorney General to step into an investigation without a request. **Representative Skaug** replied that he was unaware of the Attorney General stepping into an investigation. The current system for conflict worked for county employees, but not for city employees.

Senator Harris asked why there was no a fiscal impact that resulted when the Attorney General took over city investigations. **Representative Skaug** stated that he spoke to the Attorney General's office and they didn't feel that there would be any fiscal impact because the investigation process was already in place.

Senator Wintrow asked if Representative Skaug worked with the Association of Cities on this legislation. **Representative Skaug** replied that he did not work with them. He stated that he had heard from many constituents in support of this legislation.

TESTIMONY:

Jeff Nye, Chief of Criminal Law Division, Idaho Office of the Attorney General, stated that the Attorney General's office did not look for corruption to investigate on their own. He remarked that the Attorney General's office was reactive to concerns of corruption. He stated that he was confident that the system in the Attorney General's office was efficient enough that there would be no fiscal impact. **Mr. Nye** stated that there wasn't much corruption in Idaho, but that he did see elected officials who broke laws unintentionally. He remarked that it was these circumstances that **H 390** affected. He stated that, in the legal world, attorneys worried about the perceived conflict of interest. **H 390** addressed perceived conflict.

DISCUSSION:

Senator Ruchti asked if counties had the ability to consult the Attorney General's office if needed. **Mr. Nye** replied that the Attorney General's office provided informal assistance, but that the perception of conflict was still an issue. He remarked that many attorneys referred cases to avoid perceived conflict. **Senator Ruchti** asked about the difference between true conflict and perceived conflict. **Mr. Nye** stated that a perceived conflict could be viewed as a true conflict.

Senator Wintrow asked if anyone could report concerns and trigger an investigation. **Mr. Nye** replied that anyone could report concerns. He stated that these concerns were reviewed by counsel for merit and were investigated thoroughly.

Representative Skaug stated that **H 390** only applied to city elected officials with concerns related to their duties as an elected official.

NOTE:

Written testimony provided for **H 390** is contained in Attachment 1.

MOTION:

Senator Toews moved to send **H 390** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**. **Senator Wintrow** and **Senator Ruchti** asked to be recorded as voting nay.

NOTE:

Chairman Guthrie stated that **H 498** was removed from the agenda at the request of the sponsor.

ADJOURNED:

There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:01 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary

Madison Schrader
Asst. Secretary