

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 23, 2015

TIME: 8:00 A.M.

PLACE: Room WW55

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

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 McKenzie** convened the meeting at 8:04 a.m.

RS 23904: **A Senate Concurrent Resolution for Federal Lands to request the Department of Lands to Perform Certain Duties with the Federal Government Regarding Federal Lands.**

Senator Winder presented **RS 23904**. He asked that the Committee print and send it to the floor with a do pass recommendation.

MOTION: **Senator Lakey** moved to print **RS 23904** and send it to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

HCR 16: **A House Concurrent Resolution to recognize and congratulate Benewah County and its residents for the County's Centennial Anniversary.**

Representative Troy, District 5, recounted Benewah County's history, attributes, schools, and famous people. She asked the Committee for a do pass recommendation.

MOTION: **Senator Stennett** moved to send **HCR 16** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**

H 67: **Relating to an Application under Article V of the United States Constitution to Provide Procedures for Selection of and Exercise of Authority by Idaho Delegates to an Article V Convention, if Called by the States.**

Representative Luker, District 15, presented **H 67**. He outlined the legislation, and explained the reasoning and definition of each intention. He cited Subsection 4, an unauthorized amendment, a key component to this proposal. He explained how that would affect the delegates voting and ability to serve. **Representative Luker** stated that this bill is anticipatory legislation in the case an Article V convention was called by the states.

Senator Winder asked if a delegate voted at the convention and was found to be in violation, what impact would there be on the actual vote. **Representative Luker** replied that the vote would be counted but would be subjected to a judicial challenge.

Senator Davis expressed his concerns with this legislation regarding a faithless delegate, how a caucus operates, and the ability to monitor delegates. **Representative Luker** explained that this legislation is a guideline for delegates to follow in case an Article V convention was called.

Senator Winder asked how an amendment would be approved and how Idaho would decide which amendments the delegates would vote on. **Representative Luker** explained the process of calling an Article V convention and the scope of the application. He explained that Idaho would pass a joint resolution calling for a decision on the specific amendment(s) to the Constitution.

Senator Siddoway asked if the Idaho Legislature would have to meet while an Article V convention was in process in order to authorize the delegates' votes. He stated this wording seems quite broad and could require the Idaho Legislature to convene for a decision. **Representative Luker** explained that conventions happen with sufficient notice and the body could act prior to the convention. However, if a situation occurred, a special session might be called.

Senator Lakey asked if the sideboards are set before the delegate go to the convention. **Representative Luker** answered in the affirmative.

Senator Davis stated that the Idaho Legislature does not have the power to convene itself into a special session. He asked what would happen if the Governor is unwilling to call a special session, and would this bill quiet the voice of Idaho. **Representative Luker** stated currently, we don't know what the voice would be because there are no rules in place. This bill will provide a forward direction with the ability to refine.

Chairman McKenzie explained that the delegates are limited to what the Legislature had voiced on the issue. So in the case of the Legislature not being in session, it would take the Governor to call a special session and a decision of the Legislature to expand the vote.

Senator Hill asked if there are any provisions regarding involvement of the minority party. **Representative Luker** stated it isn't directed in this bill. He explained the selection of the delegates. **Senator Hill** asked if the delegates could not get a two-thirds vote, would they not be able to participate in the vote. **Representative Luker** replied in the affirmative.

TESTIMONY:

Walter Donovan stated that he is in opposition to **H 67**. He outlined the various problems in the legislation and said it needs to be fine tuned before being approved. He provided examples of the problems this legislation would create and suggested wording changes to remedy the issues.

Tom Munds expressed the concerns that states have with the federal government. He discussed the process of an Article V convention and his concerns about the abilities of Idaho's delegates. This legislation makes the delegates unaccountable for their decisions and this would create a new bureaucracy. He asked that the Committee vote no on **H 67**.

Ronalee Linsenmann said she has done some research on an Article V convention and has concerns that this bill would limit Idaho's delegates on many of the issues that could be raised at the convention. She believes that this legislation is premature. She asked that the bill be held in Committee.

Duncan Farris testified in opposition to the bill and asked the Committee to please hold **H 67**.

Reverend William Thomas Howie, Pastor, White Stone Ministry, Meridian Idaho, said that he supports the words of Mr. Donovan. He is opposed to **H 67** and asked the Committee not to pass the bill.

Dale Pearce pointed out that the people established the Constitution and we hire elected officials to represent the people. He stated this bill is to limit and guide the delegates that would go to an Article V convention. He stated that once the convention happens there are new rules. He asked that this bill be voted down.

Paula Davina said she concurred with all of those who have spoken against the bill. She stated there is much concern that if a convention is called it could become unmanageable, and subjective to many different issues.

Doug Davina claimed that former Chief Justice Warren Burger wrote that a convention could make its own rules and set its own agenda. That means this legislation would be null and void. He asked the Committee to hold the bill.

Representative Luker closed the debate stating that there was good testimony about the Constitution and its importance. Article V is in the Constitution for a reason: its foresight is that Congress may not do its job in listening to the people. He explained the role of the State in this process. He stated that this legislation is not a call for a convention. Instead this is a call to be prepared in the event a convention is convened. **Representative Luker** asked if a convention is called, what would be Idaho's preparedness. He stated that now is the time to put procedures in place for delegate selection and direction.

MOTION:

Senator Davis moved to hold **H 67** in Committee. **Senator Lodge** seconded the motion.

Senator Winder stated he is in support of the motion. He explained that he thinks there is some merit in preparation, but there should be some more work done on this legislation.

Senator Davis stated he has thought a great deal about this issue. He said Section 1 of the bill cannot be upheld. He said the fear he has of what could go wrong at an Article V convention far exceeds the possibility of the loss of constitutionally protected freedoms. He stated that this bill is too restrictive for delegates and could harm Idaho.

Chairman McKenzie stated the Committee must trust the founding fathers and defend the Constitution, which includes Article V and the states' rights to call for a convention to consider amendments. He gave a brief history of Article V, the Madison Amendment, and quoted President Madison's statement of Congress's ability to spend the people's money. He explained that Congress's spending is the great challenge to national sovereignty. It is up to the states to fix the spending issue. He anticipates that an Article V convention will be called to address the debt, and it is in the interest of Idaho to be prepared. He said that limits on the delegates could lower the likelihood of a runaway convention. He concluded by saying that doing nothing would ensure that Congress will continue to overspend.

Chairman McKenzie called for a roll call vote on the motion to hold **H 67** in Committee. The motion carried by **roll call vote** with 5 ayes and 4 nays. **Vice Chairman Lodge** and **Senators Davis, Winder, Stennett** and **Buckner-Webb** voted aye. **Chairman McKenzie** and **Senators Hill, Siddoway** and **Lahey** voted nay.

HJM 1

A House Joint Memorial to Urge the Senate and House of Representatives of the United States and the Congressional Delegation Representing the State of Idaho to Submit a Constitutional Amendment to the States for Ratification.

Representative Dayley, District 21, presented **HJM 1** and reminded the Committee that the key part of this memorial is to ask Congress to submit to the states a specific amendment. **Representative Dayley** said there are 41 other states with some type of authority for administrative review of rules. He explained the specifics of the memorial.

Senator Stennett asked what is the definition of federal regulators. **Representative Dayley** replied that it is any administrative procedures from a federal agency. **Senator Stennett** asked how is the oversight sufficient with just one-fourth of a Congress of 50 plus 1. **Representative Dayley** stated the value of the administrative review is beneficial and explained the process of disapproving and accepting rules on the state level. He stated that it is the prerogative of Congress to oversee agencies on a regular basis, but there is difficulty in making that happen. This legislation would be a way for oversight to take place.

Senator Stennett asked what is the possibility that Congress would efficiently examine all regulators and agencies. **Representative Dayley** replied this doesn't require them to review the agencies individually instead, this is a mechanism for a method to control federal regulations.

Senator Hill stated he is in complete agreement with the goals of **HJM 1**; his concerns are with the process. He asked if this could be used by the minority to halt government. **Representative Dayley** replied sometimes it would be valuable to stop the actions of government. He gave examples of the overreach of Congress. **Senator Hill** asked if this legislation were defeated, would he be interested in bringing forth a similar memorial. **Representative Dayley** replied in the affirmative.

MOTION: **HJM 1** failed for lack of a motion.

H 112: **Relating to Election Campaign Contributions and Expenditures to Revise Provisions Relating to Notification of Certain Contributions.**

Representative Chaney explained that the Sunshine Act was a means of promoting transparency and accountability in the State in regard to elections. He commented that the current act has an escape clause that allows for political action committees (PAC) to bypass the process. **H 112** will remove that opportunity and permit the intent of the Sunshine Act.

MOTION: **Senator Hill** moved to send **H 112** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

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

H 53AA: **Relating to the Code of Military Justice.**

Captain Steve Stokes, Attorney, Idaho National Guard (ING), presented **H 53aa**. He said this legislation updates the current Idaho Code of Military Justice (Code) (1975). The revisions will bring uniformity and consistency by adopting the model state code, and it will resolve some significant problems within the current Code. **Captain Stokes** said this legislation is for the ING and explained the purpose of the organization. The ING has undergone many changes since 1975, and the code needs to be amended to meet current needs. He stated that, with these changes, they will not preempt a civilian jurisdiction, but they would like the ability to take action regarding cases that involve enlisted persons.

Senator Davis asked if there was a determination for a criminal to serve time, where would the enlisted person be incarcerated. **Captain Stokes** replied that under the current mandate, they would serve in an Idaho correctional facility. **Senator Davis** asked if the new language of the Code has been reviewed with the Idaho Department of Correction (IDC) and Idaho Association of Counties (IAC). **Captain Stokes** replied that they have not talked with the IDC; however, they have talked with the Ada County Sheriff and with the Association of Sheriffs. They have not received any opposition from either of those agencies. He explained the relationship the ING

has with Idaho sheriffs' departments. The major concern is with funding; the ING does have per diems for meals and other items. He stated that the Uniform Code of Military Justice provides for exclusive jurisdiction over service members who are subject to that code. He gave an example of how that would be undertaken.

**PASSED THE
GAVEL:**

Vice Chairman Lodge returned the gavel to Chairman McKenzie.

Captain Stokes showed the Committee which states have adopted, rejected and are reviewing this enactment. He highlighted the agencies and organizations that evaluated the language and none have expressed any concerns or direct opposition. He stated that **H 53aa** was amended before it came to the Senate because the appeals provision needed to be changed. He explained the amendment.

Vice Chairman Lodge stated that as Chairman of the Judiciary and Rules Committee, she was concerned that they didn't speak with the IDC. She asked if Idaho's probation and parole departments would supervise the soldiers. **Captain Stokes** said they made a choice to not speak with the IDC because the incidence of internment are so low. He stated that the supervision of probation is not applicable to service members.

Senator Lakey said the work on **H 53aa** was very much appreciated; it is a good bill.

MOTION:

Senator Lakey moved to send **H 53aa** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

Senator Winder stated that the ING has been working on this legislation for almost two years. While it doesn't solve all the issues, it solves the majority of them. He supports this bill.

The motion carried by **voice vote**. Senator Lakey will carry **H 53aa** on the floor.

Chairman McKenzie echoed Senator Lakey's appreciation.

PRESENTATION: Idaho Emergency Communications Commission 2015 Annual Report to the Idaho Legislature.

Craig Logan, E911 Manager, Idaho Emergency Communication Commission, presented the 2015 annual report. He discussed the details of the fiscal information along with the goals and how each was met. He spoke about the grants fund and how the counties involved are working together to share equipment (see attachment 1).

Chairman McKenzie asked if more payments are going into the fund as more Voice over Internet Protocol (VoIP) are coming to 911. **Mr. Logan** answered that any equipment capable of making a 911 call has the fee levied through the vendor of that system.

ADJOURNED:

Chairman McKenzie adjourned the meeting at 10:05 a.m.

Senator McKenzie
Chair

Twyla Melton, Secretary

LeAnn South, Assistant Secretary