

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 17, 2017

TIME: 8:00 A.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Davis

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 Siddoway** convened the meeting of the Senate State Affairs Committee (Committee) at 8:00 a.m. and welcomed those attending.

S 1183 **Relating to Firearms to provide that private and government entities shall not be liable for policies related to the lawful carrying, possession or storage of firearms on their property.**

Senator Lakey presented the rationale for **S 1183** and noted that input had been gathered from trial lawyers and the National Rifle Association, and the information from those resources was made part of the legislation.

MOTION: **Senator Lakey** moved that **S 1183** be sent to the 14th Order of the floor for possible amendment. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**

RS 25511 **A Senate Resolution providing for the addition of a new rule 54 to the Rules of the Senate related to a contested election.**

RS 25521 **A Senate Concurrent Resolution providing for the addition of a new Joint Rule 22 of the Joint Rules of the Senate and the House of Representatives related to a contested election.**

RS 25524 **Relating to Elections and Election Contests repealing Chapter 21, Title 34, Idaho Code related to election contests and the addition of a new Chapter 21, Title 34, Idaho Code related to election contests.**

MOTION: **Senator Hill** moved to send **RS 25511**, **RS 25521** and **RS 25524** to print. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 25566 **A Unanimous consent Request from the Health & Welfare Committee relating to dietitians to revise definitions and to add a new Section 54-3502(a) to establish provisions regarding dietetic practice.**

MOTION: **Vice Chairman Hagedorn** moved to send **RS 25566** to print. **Senator Lodge** seconded the motion.

Senator Winder asked if Senator Heider, who was in the audience, would yield to a question concerning the disposition of these proposals, more specifically what would happen with the RS after printing, given the closeness to the end of the session.

Senator Lee Heider, District 24, said he hoped to get the proposal printed and to the Health & Welfare Committee that afternoon so they could move forward. **Senator Heider** explained that objections have been addressed and it was felt the RS would move quickly on the Senate floor and over to the House of Representatives.

The motion carried by **voice vote**.

Chairman Siddoway changed the order of the agenda in absence of the Gubernatorial appointee.

S 1161

Relating to the Use of Force that certain persons attempting to enter a habitation are presumed to do so with intent to commit a felony.

Senator Bert Brackett, District 23, stated **S 1161** clarifies statutes to presume that a person who unlawfully and by force enters or attempts to enter the habitation of another person is doing so with the intent to commit a felony. He presented the rationale for the legislation, which he said gathers all of Idaho statutory, case law, and jury instructions and combines them into an easily understandable, centralized statute.

Senator Brackett noted that Idaho Code § 19-202(a) adds language stating there is no duty to retreat and adds changes to include gender neutrality. Specifically, the amendment clarifies that a person can defend themselves by any means including force, if necessary, and exercise the right of self defense. The proposed legislation does not create new requirements or processes that would add additional expense to the General Fund.

An extensive question-and-answer period centered on the need for language clarification and resolution of possible conflicts with existing case law. **Senator Brackett** expressed his willingness to make modifications where needed.

TESTIMONIES:

Zach Brooks, Chairman of the Board, Idaho Second Amendment Alliance, testified in opposition to **S 1161**, stating the proposed bill does nothing to strengthen current law. He asked that the bill either be held in Committee or sent to the amending order to ensure that an improved bill is ready for next session.

Representative Christy Zito, District 23, described her personal experience with aggressive behavior and asked that the bill be strengthened to bring it closer to case law and jury instruction. **Ms. Zito** also felt the bill should include the presumption of a victim's innocence, with the burden of proof falling on the perpetrator and asked for additional language that reduces a victim's costs and incorporates more specificity regarding illegal entry or aggression.

Senator Brackett thanked Mr. Brooks and Representative Zito for their testimonies and asked that the bill be sent to send it to the floor.

Senator Hill asked if Senator Brackett and his group had coordinated with Representative Zito and her group, and visa versa. **Senator Brackett** said they had not.

Senator Winder said the bill should not step on existing case law and suggested the Senate Pro Tem and the Speaker of the House establish a working group to define clear and inclusive language in coordination with both Senator Brackett and Representative Zito and their groups.

MOTION:

Senator Winder moved to hold **S 1161** in Committee. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **The Gubernatorial Appointment of Mary E. Hughes to the Idaho Endowment Fund Investment Board.**

Mary Hughes reviewed her professional background, which includes 27 years with the Idaho Department of Finance, with positions as Deputy Attorney General, Lead Deputy Attorney General, Consumer Finance Bureau Chief, and Financial Institutions Bureau Chief.

Chairman Siddoway thanked Ms. Hughes for taking over the position for Gavin Gee, who is recovering from an accident, and said the Committee would vote on her appointment at its next meeting.

S 1144

Relating to Regulation of Alcohol to repeal Idaho Code S 23-614 relating to prohibited acts and attendant penalties and the addition of a new Code § 23-614. **Cynthia Yee-Wallace**, Deputy Attorney General, Office of the Attorney General presented **§ 1144**, which repeals and replaces the current version of Idaho Code § 23-614 that enforces and regulates prohibited conduct at establishments licensed to sell alcohol.

Ms. Yee-Wallace recapped the history of the existing bill and related litigation. The purpose of **S 1144** is to reduce secondary effects, such as crime or other public safety hazards at establishments licensed to sell alcohol on the premises and offer erotic adult entertainment that does not contain serious literary, artistic, scientific or political value. In addition, the legislation creates an exception for artistic performances that express serious literary, artistic, scientific or political value. **Ms. Yee-Wallace** referred to a binder of studies that supports the amendment (see attachment 1-17). She said the position of the Attorney General's office is that this statute is constitutionally defensible and allows the Idaho State Police to continue to enforce the policy set by the Legislature in the 1970s to regulate the secondary effects.

Senator Stennett asked if the venue would determine the definition of what is considered to be literary or artistic. **Ms. Yee-Wallace** replied affirmatively.

TESTIMONY:

Captain Russ Wheatley, Idaho State Police, testified in support of **S 1144**. **Captain Wheatley** explained instances of secondary effects, and said the legislation provides a constitutionally defensible statute that can be enforced to prevent those secondary effects.

MOTION:

Senator Buckner-Webb moved to send **S 1144** to the floor with a **do pass** recommendation. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL:

Senator Lodge moved to approve the minutes of January 27, 2017. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman Siddoway** adjourned the meeting at 9:28 a.m.

Senator Hagedorn
Vice Chair

Twyla Melton, Secretary

Jeanne Clayton, Assistant
Secretary