

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 09, 2018

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Siddoway, Senators Hill, Winder, Lodge, Vick, Anthon, Stennett, and Buckner-Webb

ABSENT/ EXCUSED: Vice Chairman Hagedorn

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** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:03 a.m. with a quorum present.

RS 26317 UNANIMOUS CONSENT REQUEST from the Senate Commerce and Human Resources Committee to print.

Senator Jim Patrick, Chairman, Senate Commerce and Human Resources Committee, explained **RS 26317** (Attachment 1) requests the formation of an interim committee to study Pharmacy Benefit Manager transparency. This interim committee would work with the Pharmacy Benefit Manager, the Idaho Department of Insurance, and the Idaho Pharmacists to study the issues, come to a consensus in clarifying the methods of operation for premiums, and identify ways to lower costs.

MOTION: **Senator Anthon** moved to send **RS 26317** to print and then be referred to the **10th Order**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 26344 UNANIMOUS CONSENT REQUEST from the Senate Commerce and Human Resources Committee to print.

Senator Todd Lakey, District 12, stated **RS 26344** (Attachment 1) comes jointly from the House and Senate committees pertaining to commerce, and requests the formation of an interim committee to review occupational licensing and certification laws and rules, and to evaluate their necessity. He stated a joint sub-committee has been meeting to study these issues in an attempt to simplify the regulations and the licensing process. **Senator Lakey** asserted the formation of the interim committee would enable this work to continue.

MOTION: **Senator Vick** moved to send **RS 26344** to print and then be referred to the **10th Order**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

HCR 51 HCR 51 will be moved to a later time on the agenda, awaiting the arrival of Representative Anderst.

HCR 54 STATING FINDINGS OF THE LEGISLATURE to congratulate Jerry Kramer on his induction into the Pro Football Hall of Fame.

Representative Caroline Nilsson Troy, District 5, noted **HCR 54** proposes to recognize Idaho football legend Jerry Kramer on his induction into the National Football League (NFL) Hall of Fame, and to name August 23, 2018 as "Jerry Kramer Day." **Representative Troy** summarized Jerry Kramer's Idaho background

and his accomplishments as follows:

- graduated from Sandpoint High School in 1954;
- attended University of Idaho on a football scholarship;
- was selected as Idaho's first all-American as an honorable mention in 1956;
- was drafted by the Green Bay Packers in 1958;
- helped win five NFL championships and Super Bowls I and II;
- selected for all-pro five times;
- has written several best-selling books; and
- worked as a commentator on CBS's NFL telecasts.

Representative Troy pointed out that Mr. Kramer has been a finalist for the NFL Hall of Fame 11 times; this year he was selected. He will be inducted August 4.

MOTION:

Senator Vick moved to send **HCR 54** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

H 607

RELATING TO INFORMATION TECHNOLOGY (I.T.) SERVICES to establish an office within the Office of the Governor.

Jeff Weak, Director of Information Security, Office of the Governor, stated that **H 607** proposes to create the Office of Information Technology Services (OITS) within the Governor's Office, transferring existing statutory authorities from the Department of Administration. He noted the bill would optimize services and enhance cybersecurity by consolidating common I.T. services currently operated and maintained by each agency. **Mr. Weak** explained the National Association of State CEOs found consolidation and optimization to be a highly efficient and safe management process. He noted this consolidation will eliminate duplicative services and products, enabling the State to leverage purchasing power for I.T. procurement.

Mr. Weak related the goal of **H 607** is to strategically reorganize existing personnel and budgets to fulfill specific roles and functions, and to provide enhanced services. **Mr. Weak** stated OITS would be required to follow the Department of Administration procurement rules.

Senator Vick asked why this is being consolidated in the Governor's Office instead of the Department of Administration. **Mr. Weak** replied this organization is aligned with industry best practice, and stated the 2016 Cybersecurity Task Force specified the Director of Information Security should reside in the Governor's Office.

Senator Buckner-Webb inquired if there is any integration or coordination of services. **Mr. Weak** replied that conversation is ongoing with Greg Zickau and Sarah Hilderbrand to discuss I.T. procurement. He stated that work will continue in a coordinated manner.

Bob Geddes, Director, Department of Administration, spoke in support of **H 607**. He noted that preparation of this bill has been in progress for a long time, and consideration has been given to input from agencies and other organizations associated with efforts to provide the best service possible. **Mr. Geddes** reported three years ago, at a national organization conference, he became aware that only six states having federated models; i.e., models where each agency manages their own I.T., and Idaho was one of the six. He reviewed the process leading to the development of **H 607**, the need for better cybersecurity, appointment of Jeff Weak as Director of Information Security, and the focus of the Governor on improved cybersecurity.

MOTION: **Senator Buckner-Webb** moved to send **H 607** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

HCR 51 **STATING FINDINGS OF THE LEGISLATURE to authorize the formation of a study group to make recommendations regarding the locations of State government agencies.**

Representative Robert Anderst, District 12, explained **HCR 51** proposes the formation of a study group regarding the locations of State government agencies. He stated the makeup of the group would include the State Building Authority, the Department of Administration, a House and a Senate member, and a representative from the real estate community.

Senator Stennett asked for clarification regarding the movement of agencies that may move into the former HP complex. **Representative Anderst** explained that changing agency locations requires preliminary work to determine the best use for those locations. The study group would conduct that work, as well as consider valuation and environmental concerns. **Senator Stennett** asked how many departments are in their own buildings. **Representative Anderst** replied he did not know the number, but he did know the Idaho Transportation Department was one agency owning their own facility.

Senator Buckner-Webb inquired who is currently responsible for those tasks. **Representative Anderst** answered he understood those recommendations would come from the Department of Administration.

MOTION: **Senator Winder** moved to send **HCR 51** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 620 **RELATING TO PUBLIC OFFICIALS to provide for the Public Integrity in Elections Act.**

Representative Monks, District 22, stated **H 620** proposes:

- to create the Public Integrity in Elections Act;
- to identify the proper role of governmental entities with regard to elections;
- to codify and clarify existing case law;
- to protect elected officials' and public employees' First Amendment rights; and
- to ensure that public funds, resources, and property are not used to influence elections.

Representative Monks reviewed the bill, detailing the purposes and explaining each change. He recounted the history of the bill which began last year.

Representative Monks collaborated with stakeholders to produce **H 620**.

Senator Stennett asked about the use of public resources, such as State-funded college campuses, where groups like the Young Republicans and Young Democrats use college supplies and equipment for political purposes. **Representative Monks** replied the legislation applies to public officials using those resources to advocate for or against measures.

Senator Stennett referred to page 3, line 10, regarding classroom discussions or debates of pending election issues and asked if that is an exclusion.

Representative Monks noted those are exclusions. He added it would be a problem if teachers, in their capacity as teachers, used their position to advocate in front of a classroom of students.

Senator Stennett expressed concern about the aggressiveness of the penalties. She questioned having the Attorney General's Office (AG) responsible for enforcing this chapter. She requested an opinion from the AG, and the AG found the language vague to the extent they would not be able to enforce it. **Representative Monks** replied the penalties came specifically from the Open Meeting Law. He surmised, if the language is too vague, the Open Meeting Law may need to be reconsidered.

Senator Hill felt the intent of this bill is warranted. He expressed concern about the language, specifically the terms "advocate" and "factually neutral." **Representative Monks** referred to the definitions on page 1, line 23. **Senator Buckner-Webb** expressed concern regarding the subjective interpretation of those terms, as well as others, and asked how the actual meaning could be easily determined. Extensive discussion continued regarding the following:

- lawsuits;
- amount of evidence;
- findings of the AG's office;
- speaking as an official as opposed to a citizen; and
- use of public schools.

The following spoke in support of **H 620**:

- Michael Law, representing himself (Attachment 2);
- Quinn Perry, Director, Policy and Political Affairs, Idaho School Boards Association;
- Harold Ott, Director, Idaho's Rural Schools, and Idaho Association of School Administrators;
- Jess Harrison, Executive Director, Association of Idaho Cities; and
- Russ Hendricks, Idaho Farm Bureau Federation.

Points made during supportive testimony related to: 1) use of school district resources to advocate for a specific ballot position; 2) the need for transparency in bond or levy elections; 3) the terms "educate" vs. "advocate"; 4) knowingly committing a breach of law; and 5) codifying case law;

The following spoke in opposition to **H 620**:

- Kathy Griesmyer, American Civil Liberties Union of Idaho.

Ms. Griesmyer discussed unintended consequences of censoring First Amendment protected speech for students.

Representative Monks emphasized there is nothing that can be put into any statute to limit constitutionally-guaranteed and protected First Amendment rights. Regarding prohibition of the use of public resources, **Representative Monks** pointed out that Washington, Oregon, Montana, and Utah all have this concept in law.

MOTION:

Senator Anthon moved to send **H 620** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

Senators Hill, Anthon, Stennett, and Chairman Siddoway all expressed concern regarding **H 620**, but felt it was a step forward to eradicate existing gross violations of ethics regarding the use of public funds.

VOTE:

The motion carried by **voice vote**.

RELATING TO THE ABORTION COMPLICATIONS REPORTING ACT to require reporting of health complications related to abortions to the Idaho Department of Health and Welfare.

Representative Greg Chaney, District 10, presented **H 638**. He reported there is very little data available relating to the relative safety of particular abortion procedures or of any provider. He noted the provider of abortions frequently is not the same person who provides follow-up care. **Representative Chaney** noted this bill provides a reporting requirement for those who treat complications from abortions.

Representative Chaney discussed the contents of the bill, page by page, regarding:

- findings of the Legislature stating the need for the legislation;
- definitions;
- lists of data reported;
- requirement to report;
- protections for information;
- penalties for willful misreporting;
- exempting reports from the public record; and
- anonymity of the patient.

Representative Chaney affirmed the language has been vetted through the AG's Office, and that office, as well as the Board of Medicine, have been helpful and cooperative in ensuring the language is sound.

Senator Winder expressed concern that the bill asks for the age, race, and personal medical information of the woman regarding pregnancies and gestational age of the fetus. **Representative Chaney** maintained the race question is asked relevant to under-served populations. The number of pregnancies and abortions, and the gestational age of the fetus, are cause and effect data, which he asserted helps to determine whether a complication is arising from the abortion or from other issues surrounding the woman's health history.

Senator Anthon asked for the intent of page 6, line 37. **Representative Chaney** replied the intent is the Legislature will have the right to intervene, enforce, or defend the constitutionality of this act, if enabled. **Senator Anthon** inquired if the Idaho Legislature would be a party in the lawsuit. **Representative Chaney** stated the selected representative of the Idaho Legislature would be the party in the lawsuit. **Senator Anthon** asked how attorneys' fees would be handled. **Representative Chaney** stated there is a constitutional defense fund, and the possibility of an appropriation.

In response to questions from Senator Stennett, discussion ensued regarding accuracy of the data, use of the data, and patient confidentiality. **Representative Chaney** emphasized it is the responsibility of those providing medical care to determine the root cause of a particular medical condition. That determination can be ascertained within the bounds of science and medical ethics.

Senator Buckner-Webb inquired as to the length of time from the abortion that a report should be made. **Representative Chaney** explained that determination would be left to the medical practitioner's reasonable medical judgment. **Senator Buckner-Webb** was concerned about the amount of time that may lapse, and other conditions with which the woman may be afflicted, prior to the report being made. She asked to whom the report would be made. **Representative Chaney** stated it would be unlikely for a connection to an abortion 40 years earlier to be assumed. He added the reporting is made to the Idaho Department of Health and Welfare.

Senator Buckner-Webb asked how, if the woman's confidentiality is respected, duplications in reporting could be prevented. **Representative Chaney** replied identifying factors such as date of the abortion and name of the provider would indicate duplications. But duplicate reporting would be possible.

Representative Chaney yielded to David Ripley to return to present at the next Committee meeting.

ADJOURNMENT: There being no further business, **Chairman Siddoway** adjourned the meeting at 9:50 a.m.

Senator Hagedorn
Vice Chair

Twyla Melton, Secretary

Carol Cornwall, Assistant Secretary