AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Monday, January 15, 2018

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<th>SUBJECT</th>
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<td>Page Introduction</td>
<td>Introduction of Page, Lyndi Loveland</td>
<td>Sen. Siddoway</td>
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If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS
Chairman Siddoway   Sen Vick
Vice Chairman Hagedorn Sen Anthon
Sen Hill            Sen Stennett
Sen Winder          Sen Buckner-Webb
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
e-mail: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 15, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedom, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee to order at 8:00 a.m. on Monday, January 15, 2018.

INTRODUCTION OF PAGE: Chairman Siddoway introduced and welcomed Page Lyndi Loveland and explained that Lyndi is from St. Anthony, attended his Alma Mater in South Fremont, and had approached her neighbor, Chairman Siddoway, to be her sponsor; he agreed. Chairman Siddoway asked Lyndi to provide the Committee with some of her history and why she had an interest in coming to the Legislature.

Lyndi Loveland, St. Anthony, explained that she attended Idaho Syringa Girls State last summer where they learned about government and received high school government credits. While there, she was introduced to the page program. As they sat in the Senate seats, she immediately knew it was something she wanted to do. She sent in her application and was accepted.

Chairman Siddoway asked what she hoped to learn from this experience. Lyndi responded that she was not as educated about government as she should be; this would be an opportunity to learn.

Chairman Hill asked Lyndi to tell the Committee about her family. Lyndi answered that she had two older brothers and an older sister. Her oldest brother has a set of adorable, three year old twins. She lives at home with her parents, Mike and Laurie Loveland. She has lived on a dairy farm her whole life.

Chairman Siddoway thanked Lyndi for serving at the Legislature.

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION (IPUC) 31-1101-1701 – Safety & Accident Reporting Rules for Utilities Regulated by IPUC.

DOCKET NO. 31-1101-1701

Paul Kjellander, Commissioner, Idaho Public Utilities Commission (IPUC), stated he is bringing some housekeeping rules before the Committee. This happens about every two years when the Federal Pipeline Safety Statutes are updated. The IPUC is required to bring those updates before the Legislature. The rules today refer to the Protecting Our Infrastructure of Pipelines and Enhancing Safety (PIPS) Act of 2016 which relates to the authority to regulate carbon dioxide in pipelines.

At the federal level, the statute also requires the state program to communicate with any operator who has been inspected and provide any information concerning the inspection within 90 days. This statute further addresses standards related to underground natural gas storage facilities.

Commissioner Kjellander reiterated that this was largely housekeeping and stated his appreciation to the Committee for accommodating his schedule.
Senator Hill asked if the changes affect the standards for carbon monoxide levels. Commissioner Kjellander stated that the federal changes only give the IPUC authority to regulate and doesn't provide much information about the changes in the carbon monoxide standards.

Senator Winder addressed the "incorporate by reference" language. He inquired as to how many pages are being incorporated? Commissioner Kjellander deferred to Joe Leckie, Executive Administrator, IPUC, who stated there were approximately 35 pages. Commissioner Kjellander added that not every section in those pages was changed. Senator Winder asked that, in the future when there is a statement "incorporate by reference" there should be at least one copy of the full reference for the Committee. Commissioner Kjellander concurred.

Senator Hagedorn commented that he clicked on the link in that rule and accessed all the information. He suggested adding the appropriate link within the rule.

Chairman Siddoway asked if the rule only affects gas lines or does it affect other lines such as sewer lines? Commissioner Kjellander answered that it solely affects natural gas lines.

**MOTION:** Senator Hill moved to approve Docket 31-1101-1701. Senator Hagedorn seconded the motion. The motion carried by voice vote.

Senator Lodge asked Commissioner Kjellander about the lack of monies for the telephone program.

Commissioner Kjellander provided a brief overview. He explained that the State of Idaho is one of approximately 20 states in the nation that participates in the Universal Service Fund. The fund was created in 1988 to ensure that customers in rural areas paid a reasonable comparable rate for voice line services as that of customers in larger communities. Recently, with the emergence of advanced technology, the number of access minutes and lines have declined. This year the number has declined by 30 percent. Based on the current statute, there are very few alternatives other than raising the fee for customers that still have voice lines; doing so would raise approximately $1.7 million, which would be dispersed according to the formula among the eight rural phone companies. Beginning on Wednesday this week, representatives of a number of telephone companies will meet with the objective of reporting to and working with this Committee to develop relevant legislation in next year's legislative session.

Senator Lodge thanked Commissioner Kjellander and expressed her concern for the rural areas she represents.

Chairman Siddoway expressed a concern about the affect on telephone cooperatives; would they be subject to paying the $1.7 million? Commissioner Kjellander suggested that this does not affect cooperatives. However, Commissioner Kjellander said he would check on this and get back to Chairman Siddoway and the Committee. (See Note Below)

**ADJOURNMENT:** There being no further business, Chairman Siddoway adjourned the meeting at 8:18 a.m.

**TESTIMONY UPDATE FROM COMMISSIONER KJELLANDER** After subsequent investigation, Commissioner Kjellander discovered that municipal and cooperatives are assessed the Universal Service Fund Fee for land lines-(voice). This information was provided to Chairman Siddoway on January 15, 2018.

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Senator Siddoway, Chair                          Twyla Melton, Secretary
# AMENDED AGENDA #1

**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Wednesday, January 17, 2018

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<td>GUBERNATORIAL APPOINTMENTS:</td>
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<td>INTRODUCTION OF MEMBERS:</td>
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<tr>
<td>The appointment of Brigadier General Michael J. Garshak as Adjutant General of the State of Idaho Military Division.</td>
<td>Brigadier General Michael J. Garshak</td>
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<td>The re-appointment of Jeffrey Anderson as Director of the Idaho State Liquor Division.</td>
<td>Jeffrey Anderson, Director, Idaho State Liquor Division</td>
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<td>The re-appointment of Randolph Hill to the Idaho Energy Resources Authority.</td>
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<td>The appointment of Katie Brodie to the Idaho Commission on Human Rights. Telephone interview.</td>
<td>Katie Brodie, Special Assistant to the Governor, Northern Idaho Field Representative</td>
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<td>RS25612</td>
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Sen Lodge
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 17, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Winder, Lodge, Vick, Anthon, Stennett, and Buckner-Webb
ABSENT/EXCUSED: Senators Hill
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.

CONVENE: Chairman Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENT: General of the State of Idaho Military Division.

Michael J. Garshak, Brigadier General, Idaho National Guard, stated he has recently been appointed as Adjutant General of the Idaho Military Division.

Chairman Siddoway asked Brigadier General Garshak to describe his duties as Adjutant General. Brigadier General Garshak explained that the Idaho Military Division consists of the Idaho Air National Guard (Air Guard) with 1,200 active Idahoans, and the Idaho Army National Guard (Army Guard) with approximately 3,900 individuals serving. The Idaho Military Division also oversees the Idaho Office of Emergency Management, the Idaho Youth Challenge Program in Pierce, Idaho, and the star-based science, technology, engineering, and math (STEM) program at Gowen Field.

Vice Chairman Hagedorn asked if the Idaho Military Division is the largest employer in the State. Brigadier General Garshak answered they are the fourth largest employer in the State. The economic contribution to the State is $485 million. He said one of his objectives is to create awareness of the value invested throughout the State of Idaho so they can build partnerships to continue enhancing membership in the Guard. Vice Chairman Hagedorn requested information about any new missions or recent missions that the Guard has acquired. Brigadier General Garshak described the status of the F-35 fighter aircraft mission. They were in the top five but were not the top two selections. They will continue with the process in the event one of the top two are deemed unsuitable. Currently, the A-10 fighter mission is funded and remains relevant as a war-fighting asset.

The Army Guard is pursuing training at the Orchard Combat Training Center located 20 miles south of Gowen Field at a national conservation area shared with the Bureau of Land Management (BLM). Lieutenant General Timothy J. Kadavy, Director, Army National Guard, National Guard Bureau, has identified the Orchard Combat Training area as the best place to train National Guard armor brigade combat teams. Resources are being invested to modernize the ranges and increase railhead/capacity to receive the teams. The modernization will potentially result in increased employment and training for the State. This would increase the economic impact of the Idaho National Guard.
Senator Winder asked how education and training prepared Brigadier General Garshak for this position. Brigadier General Garshak explained that after returning from the United States Army War College in 2006, he was assigned as a State Army Aviation Officer and aviation group Commander with the responsibility to maintain the readiness of all Army aviation units assigned to the Idaho National Guard. In 2012, he was assigned as Director of Operations for the Army National Guard. In that capacity, he managed and distributed operations and resources to the organizations to facilitate their training. In 2014, he was assigned as a Chief of Staff for the Army National Guard where he supervised the Army staff and worked closely with the Assistant Adjutant General for the Army, directing the National Guard for both local and national issues. Brigadier General Garshak asserted that the four years in that capacity best prepared him for this position.

Chairman Siddoway stated his appreciation to Brigadier General Garshak for his willingness to serve in this capacity; he also expressed gratitude to those who serve with him. The Chairman also extended the appreciation of the Committee, members of the full Legislative body, and the citizens of the State of Idaho.

GUBERNATORIAL: The reappointment of Jeffrey Anderson as the Director of the Idaho State Liquor Division.

Jeffrey Anderson, Director, Idaho State Liquor Division (Division), stated he has been the Director since April 2010. He also serves as the Director of the Idaho State Lottery. The Division is organized within the Executive Office of the Governor. The Idaho Constitution provides authority for the Division to oversee the traffic of distilled spirits. The Division operates 66 State stores that are staffed by State employees. There are also 105 contract stores in small communities where a State store is not warranted. The Division is the sole wholesaler and retailer of distilled spirits in Idaho. It owns one piece of property that is the central office and warehouse distribution center.

Director Anderson said his goal over the last seven years has been to ensure that the product is retailed responsibly. Compliance rates are much better than private business because of training. Another goal is to have distributions grow faster than sales, and sales to grow faster than the nine liter case depletion (the amount that goes through the warehouse). If the nine liter case depletions grow, they should grow faster than per capita consumption. Since 2010, all of those indicators have been met.

Senator Winder referred to an article regarding Oregon retail stores where 20-25 percent of stores selling alcohol and marijuana were selling to minors. He asked Director Anderson to discuss the Division's strategies to prevent young people from obtaining liquor. Director Anderson said he had read the same article. That percentage related to marijuana retailers. He explained how Oregon methods differ from Idaho methods. The Division focuses on ongoing, continuous training with both online and in-person training for store employees and they have an excellent compliance rate. Senator Winder asked what types of intervention and investigations are done by the Division to ensure that the retail distributors (bars) are complying. Director Anderson answered that the Alcohol Beverage Control (ABC) has the enforcement authority. The retail distributors are customers of the Division, but the Division has no authority over compliance at those locations. The Division cooperates with the ABC when asked, but has no law enforcement authority.

Vice Chairman Hagedorn inquired about the impact of Idaho liquor sales when Washington changed the way they were managing their liquor sales. Director Anderson said the impact was very profound for Idaho and Oregon along the Washington border. Washington has always had the highest liquor prices in the nation because of their markup formula. Washington's initiative 1183 emphasized...
convenient and lower prices, however, the result was the number of locations increased and prices went up. Washington maintained their current revenue, then wholesaler and retailer markup were added convenient and lower prices, however, the result was the number of locations. In the past, around three percent of the Division's business came from Washington customers; now, it is nearly eight percent. A store has been opened in Stateline, Idaho; it is now the highest grossing store. An average store grosses $2-$3 million annually; the new store grosses $10 million annually.

Senator Anthon referred to Director Anderson's resume where he listed the growth in revenues from 2010 and asked if those were gross revenues. Director Anderson answered in the affirmative. Senator Anthon inquired as to the net. Director Anderson explained that the Idaho sales tax is included in the revenue figures. The Division collects sales tax like any other retailer, but they do not remit it to the State Tax Commission because it is treated as Division revenues. In Fiscal Year (FY) 2010, sales revenue was $137,600,000. Distributions to the stakeholders, which are cities, counties, State government, and a variety of other programs, were $47,200,000.

In FY 2018, the forecast is $211,000,000 in sales and a little over $77,000,000 in distributions. Sales are up 53 percent and distributions are up 64 percent. The Division operates on about a 35 percent net margin. The nine liter depletions have only increased 30 percent during that period. Per capita consumption has only increased 15%. This is in line with national trends for distilled spirits. This has been accomplished with only an 11 percent increase in full-time employees. Expenses are managed responsibly and rigorously, which is why a growing share of the returns go to distributions. Net margin in 2010 was 33 percent and it is currently about 35 percent.

Vice Chairman Hagedorn asked why the sales tax is not included in the price which would reduce the administrative burden. Director Anderson stated it isn't any extra work to capture that information. The contract stores are already set up to charge sales tax, and the State stores charge it through a simple program on the cash register.

Chairman Siddoway inquired about the work and improvements needed as referred to in Director Anderson's resume. Director Anderson identified two items. The Division has been operating with the same number of State-operated retail locations for a decade. Last year, a request was made to open two new stores in the Treasure Valley; the request was denied. The Division will come to the Legislature with the same request this year. Idaho is the fastest growing state in the nation; Meridian is one of the fastest growing cities in the country. Keeping up with convenient, but responsible access is important.

The warehouse underwent a major renovation just prior to 2010 when an automated storage and retrieval system was added. More product is being moved through the warehouse than was anticipated and they will be facing issues with warehouse capacity. Senator Vick asked who makes the spending decisions. Director Anderson answered that they need spending authorization from the Legislature for any major expenditures.

The Division receives no General Fund dollars, so any growth comes out of the operations. These investments require more people and capital expenditures, but they pay for themselves within a year or two.

GUBERNATORIALThe reappointment of Randolph Hill to the Idaho Energy Resources Authority. APPOINTMENT:

Randolph Hill, Idaho Energy Resources Authority (IERA), noted that this is his fourth appointment to IERA. He was appointed by Governor Kempthorn in 2005,
then by Governor Risch, and reappointed twice by Governor Otter. **Director Hill** introduced Ron Williams, the Executive Director for the IERA, who has also been involved with the IERA since its inception. **Director Hill** said he comes from a varied background; a lawyer by profession, but has also been a Chief Executive Officer of a power company. Director Hill also worked at the Washington Group (formerly Morrison-Knudsen), and is currently a lawyer at Stoel Rives LLP where he specializes in the energy arena.

The IERA is designed to facilitate the financing, development, and construction of energy facilities; primarily transmission and generation facilities. The Bonneville Power Authority (BPA) cannot finance 100 percent of its capital needs with U.S. Government dollars; IERA has forged a strong relationship as a resource for some of that funding. The BPA and IERA completed a $200 million, long-term bond financing in September 2017. The proceeds were used to acquire facilities throughout the federal Columbia River transmission systems. BPA and IERA have another financing in progress to upgrade certain transmission facilities.

This organization benefits the State of Idaho because it allows for the facilitation of construction and operation of various important facilities that serve all of Idaho's citizens, without the full faith and credit of the State behind it. There is no risk in these financings for the State – the financing is a pass through. The debt service is paid by lease payments flowing from BPA to the IERA. Those payments are then applied to the bond payment. This has been a very successful relationship and Director Hill anticipates that, over the next several years, the IERA will do a number of transactions with BPA that will further benefit the citizens of the State of Idaho.

**Senator Stennett** asked about the changes Director Hill has seen during the time he has served in this position. **Director Hill** responded that there has been a huge change in the energy industry with the advent of renewable energy. He gave several examples how different states and regions are addressing the impact of renewable energy. The Northwest is unique in that it has a tremendous hydroelectric system and extensive transmission systems the BPA uses as an anchor to meet Idaho's needs.

The last 10-15 years have seen a change in the type of energy that is generated from traditional natural gas and coal; energy sources are transitioning to nuclear, wind, solar, and other renewable energy. There may be another change if scientists can find a stable energy system that will be a base for the intermittent nature of solar and wind.

**Senator Stennett** inquired about the number of projects that Director Hill is currently overseeing through the IERA. **Director Hill** answered that they have at least three they are actively managing. They are preparing a strategic plan to make this type of financing vehicle available to others.

**Senator Anthon** asked what the State's future needs in megawatt power will be, and how that affects the work you do. **Director Hill** said, based on market dynamics, there will be a need for added generation because the economy is expanding. **Senator Anthon** commented that Utah Associated Municipal Power Systems (UAMPS) is in the process of developing another coal fired power plant in Delta, Utah, in conjunction with Intermountain Power Plant (IPP). He asked Director Hill if he foresees any future new development for coal-powered generation. **Director Hill** stated he has seen what value coal fired power plants have added to the country and the economy. Coal has been a stable source of power for decades and continues to be an important part. However, there has been an interesting change. Although international financiers are interested in coal, many lenders will not finance another coal project. There are still opportunities to upgrade existing facilities but, in his view, the days for new coal generation in this country are over.
Vice Chairman Hagedorn referred to the Idaho National Laboratory (INL) and the small modular reactor activity that is ongoing at INL. He asked if Director Hill was aware of any activity of that type that the IERA is involved in. Director Hill answered that he was not aware of any activity that is similar to the INL.

However, he is aware of the project that UAMPS has been considering. The United States Department of Energy (DOE) may guarantee and service that loan. At this point, it is unclear if there is a role for the IERA.

Senator Winder asked if the Columbia River Treaty could impact BPA and the type of financing the IERA does. Director Hill answered that it doesn’t have any direct impact on anything the IERA is doing. It does impact the way BPA operates its system. The IERA would not be involved until BPA brings the final engineered plans to them for funding.

Chairman Siddoway referred to his trip to Washington D.C. where he had the opportunity to speak with people who were involved with the rules and regulations that govern transmissions. The discussion was about the availability of open spaces that could be used for transmission lines instead of going through private land. He asked Director Hill if he thinks those regulations may be relaxed to some extent. Director Hill recognized those frustrations. His understanding is those regulations are softening but that will take time.

GUBERNATORIAL

The appointment of Katie Brodie to the Idaho Commission on Human Rights

APPOINTMENT: (Commission). Telephone interview.

Chairman Siddoway confirmed he was talking with Ms. Brodie. He asked her to tell the Committee about her experience and her responsibilities on the Commission.

Katie Brodie stated she has been a resident of Hayden Lake, Idaho for 55 years and is seeking a position on the Commission. Ms. Brodie stated her desire to be involved to make sure that activities such as those in the 1980s, and currently in Sandpoint, will be stopped so Northern Idaho doesn't get a negative reputation. Ms. Brodie said her experience includes being a realtor, she was involved with Jobs Plus and Economic Development, and served as a County Commissioner. Serving on this Commission is something she would like to be involved with. The opportunity presented itself when there was a vacancy on the Commission.

Senator Vick observed that Ms. Brodie started at the Commission in September; he inquired as to her experience so far. Ms. Brodie said she has been involved in two meetings via conference calls. There have been a number of cases before the Commission; most were workplace related. Most of those have been dismissed after lengthy consideration of each case. The Commission makes well-thought-out, good decisions, and the investigators are exceptional. Ms. Brodie said her experience has been very positive. Senator Vick referred to Ms. Brodie’s goal to protect the reputation of Northern Idaho; he asked how the Commission can be proactive in meeting that goal. Ms. Brodie responded that being in Hayden Lake as the only representative on the Commission from North Idaho gives her the opportunity to keep people informed about the activity in Sandpoint.

Chairman Siddoway asked if Ms. Brodie has seen an increase in sexual harassment cases and if there has been cases before the Commission regarding those violations. Ms. Brodie responded that there are more cases related to sexual harassment that come before the Commission than she expected. She was surprised by the number of accusations; most were purely accusations and not a proven fact and, as such, have been dismissed. Ms. Brodie said she expects to see more of those kinds of cases because of the current publicity. Chairman Siddoway inquired if there was a procedure where such cases can be deferred for legal action. Ms. Brodie answered that there have been 16-20 cases to review
for each of the two meetings she has attended. Most of those have been dismissed. If there was illegal activity or merit, or if there was a question, the investigators would refer the case to proper authorities.

**Vice Chairman Hagedorn** referred to the activities in Northern Idaho and asked why it is relevant to the Commission; he questioned if there is an investigative authority that can assist local authorities to correct the problem. **Ms. Brodie** stated that there is "hate crime" legislation allowing lawful punishment for taking part in that sort of activity. **Ms. Brodie** stated that her interpretation is that the Commission has the ability to take proper legal action. Making the Commission aware of this type of activity in Northern Idaho is helpful.

**Senator Buckner-Webb** interpreted the role of the Commission as a more administrative role rather than an activist role and the Commission’s greatest role is to review cases, to investigate those cases, and to act on them. **Ms. Brodie** agreed.

**Chairman Siddoway** recognized Representative Bob Geddes who was in attendance.

**RS 25612 RELATING TO STATE VETERANS CEMETERIES to revise language and make technical corrections.**

**Tracy Schaner** stated she is Deputy Administrator for the Idaho Division of Veterans Services. She explained that, with the potential establishment of a State Veterans Cemetery in Blackfoot, she is here in reference to **RS 25612**. The proposed legislation consists of amendments and technical corrections to Idaho Code §§ 54-1144, 65-108, 65-202, and 65-204. These codes provide proper reference for one or multiple veterans cemeteries.

**MOTION:** **Vice Chairman Hagedorn** moved to send **RS 25612** to print. **Senator Anthon** seconded the motion.

**Senator Stennett** asked if the maintenance from the existing cemetery comes from the dedicated fund; if so, she inquired if that fund would be sufficient for both the current maintenance and a second cemetery. **Ms. Schaner** responded that the construction of the second cemetery is through the United States Department of Veterans Affairs (VA) grant process and that it is 100 percent reimbursable. There is a 10 percent State matching fund that is also reimbursable. However, there are non-allowable costs that are the responsibility of the State. Funds are set aside from the Veterans Recognition Fund for the non-allowable costs and steps were taken through legislation in 2017 to move those funds to the appropriate funding mechanism.

The motion carried by **voice vote**.

**RS 25608 RELATING TO THE ENDOWMENT FUND INVESTMENT BOARD to revise compensation provisions regarding board members.**

**Chris Anton** stated he is the Manager of Investments for the Endowment Fund Investment Board (EFIB). **Mr. Anton** explained that **RS 25608** is intended to increase the per diem honorarium for the EFIB members from $50 to $100. The increase will assist with recruiting and retaining EFIB members. More importantly, it will recognize the efforts they put forth as fiduciaries for what is currently $3 million in investment funds. 1992 was the last time the per diem was increased. The increase in personnel cost will be less that $2,000 per year. Those costs are funded by the EFIB clients from the Land Grant Endowment Fund and the State Insurance Fund. There is no cost to the General Fund.

**Senator Stennett** asked how often the EFIB meets. **Mr. Anton** said they generally meet quarterly. However, last year there were more than 12 meetings due to the
effort to fill a vacancy. The meetings are generally five to six hours plus the time spent in preparation for the meeting.

MOTION: Senator Anthon moved to send RS 25608 to print. Senator Lodge seconded the motion.

Senator Winder stated that, for the record, he is a member of the EFIB and that he receives no compensation as a member of that board.

Motion carried by voice vote.


Ardie Noyes stated she is the Business Operations Manager for the Idaho State Racing Commission. She is appearing before the Committee to present Docket No. 11-0406-1701. She introduced Lieutenant Colonel Sheldon Kelly of the Idaho State Police.

Ms. Noyes explained that there are two sections of their rules that outline the time frames for procedures related to the hearings regarding equine drug violations. The time frames in these two sections currently do not coincide with one another. The proposed rule change affects a. IDAPA 11.04.06.051.01 which is the rule regarding Stewards jurisdiction. The contents of that rule has an effect on b. IDAPA 11.04.11.160 which is the rule regarding the split sample testing in the medication section but does not change it. Ms. Noyes explained that it is a matter of timing:

- a. IDAPA 11.04.06.051.01 states a steward's jurisdiction lasts for 30 days after a race meet is held; all hearings and determinations must be completed within that time frame.
- b. IDAPA 11.04.11.160 provides a timeline for a horseman's right to due process through the split sample procedures.

Currently, after a race is run, it could take up to 10 days to get the final lab results and then there are further processes and longer time frames that occur before the final results can be determined. That time frame is much longer than the 30 days allowed in a. IDAPA 11.01.06.051.01. For a complete explanation of how this affects the steward's jurisdiction restrictions and the Commission itself, see Attachment 1.

Senator Winder referred to the amended language of subsection 01. Senator Winder asked if it would be possible to put a time limit on the extension so it will have an end date. Ms. Noyes agreed there would be an end date. She said they are involved in a case that has been active since 2015; it is now in the district court. This rule provides the final date is the end of the racing season; it would not go on indefinitely.

Senator Stennett ask for clarification between the 90 days for the stewards jurisdiction and the Commission's ability to extend the time period if necessary. Ms. Noyes explained that they took the wording for this rule from Washington, Oregon, and Wyoming rules. The change would allow the stewards to conclude the season because the steward would have done all they could by that time.

Senator Stennett asked for an example of how the Commission might be affected financially. Ms. Noyes answered that the stewards are paid a flat rate of $100 for conducting a hearing. Typically, stewards resolve a hearing in a single day. There are three stewards on the panel so it would be $300 for the day. To hire attorneys and a hearing officer in place of the stewards would be far more than the $300.

Senator Lodge asked where the samples are sent. Ms. Noyes said the current laboratory is Truesdail Laboratories in Irvine, California. Senator Lodge asked
about the cost, and also, what ARCI stood for. Ms. Noyes replied that ARCI stands for the Association of Racing Commissioners International. The split sample cost is not charged to the Commission, that comes from the horseman. The cost averages $250-$750, depending on which laboratory that horseman chooses.

Chairman Siddoway asked if a horse would be restricted from participating in other races if there is a contested sample. Can a horse be disqualified from participating in other races if the result is in question? Ms. Noyes responded no. The horse could race at another track in Idaho or run in another state. There could be a question if one of those races was a qualifying race. Chairman Siddoway inquired about a contested sample; if the sample is contested, would the horseman have to return the purse until there is a resolution. Ms. Noyes responded that purses are not distributed until all test results are returned.

MOTION: Vice Chairman Hagedorn moved to accept Docket No. 11-0406-1701. Senator Lodge seconded the motion. The motion carried by voice vote.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 9:35 a.m.
Good morning, Chairman Siddoway, Vice Chairman Hagedorn, and Committee Members.

My name is Ardie Noyes. I am the Business Operations Manager for the Idaho State Racing Commission. I appear before you this morning to present for your consideration, Docket No. 11-0406-1701.

This rule is simple in nature.

In short, there are two sections of our rules that outline the timeframes for procedures related to hearings regarding equine drug violations. The timeframes in these two sections currently don’t match well.

I would like to provide for you a summary of both rules, and then go over the changes we are proposing.

The two rule sections I’m referring to are:

a. 11.04.06.051.01 – which is the rule regarding Steward’s Jurisdiction

b. 11.04.11.160 – which is an IDAPA rule regarding split sample testing in the medication section.

We are only proposing a rule change for the first rule I mentioned, but it does have an affect on the second rule.

The first rule, the one we’re seeking the change on - states a Steward’s jurisdiction lasts for 30 days after a race meet is held. This means the Stewards must hold all hearings, and make all determinations which haven’t already been settled, within 30 days after the last day of racing.

The second rule which there is NO change to, is being brought to your attention as it provides a timeline of a horseman’s right to due process through the split sample procedures. Currently, after a race has been run, it takes approximately a week, in some cases up to 10 days for the final lab results to come in to the Commission. Commission staff then forwards the test results to the Stewards via email. No purse monies can be released to the winners until these lab results have been received in the Commission office, then forwarded to the Stewards who also verify all test results have been shown to be free of drug abuses.

If a horseman’s winning horse is found to have a positive drug test, all purse monies for that particular race are held by the Racing Association. To schedule a hearing, the Stewards must provide a written notice to the horseman. Because racing happens all throughout our state, our rules provide for the delivery of a hearing notice via certified US postal mail. It can take up to 5 business days for a horseman to receive notice of a hearing. According to our rules, the notice itself must provide 3 days’ notice to the horseman. (Please note that already, at this point, approximately 20 days has passed since the race has been held.)

Once the notice is served upon the horseman, he also has a right to request a split sample test be done. A split sample test is an important part of a horseman’s right to due process. The Racing Commission Veterinarian takes extra testing samples from every winning horse. This way, there is un-tested material ready for the horseman to use for split sample purposes. If, for any reason, a horseman feels the primary laboratory test results are not accurate, they have
the right to request this extra un-tested specimen be sent to a third party laboratory for independent testing. Our rules refer to these as **referee labs**. These are certified labs that have volunteered to be available for split sample testing. Our rules provide the horseman with 3 business days, from the date of the receipt of notice, to request a split sample test. *(By now, if accounting for weekend days, it has been 25 days since the race took place.)*

Also, as soon as the notice is served upon the horseman, he has a right to request a continuance. Stewards may allow a continuance and rescheduling of a hearing, if the horseman can show that having a hearing on a particular date will be a hardship to them, or if they prefer to have the hearing after their split sample test has arrived. Typically, those who request a split sample test also request a continuance so that the hearing will be held after the split sample result comes in.

Once the split sample has been requested, the Racing Commission must confirm with the referee lab that they will accept this particular split sample, and must also confirm the cost of testing and shipping for that sample. Some labs provide guidelines for their response times, and others do not. Typically, this process can take up to two more business days. *(27 days has now passed.)*

According to our rules, before the Racing Commission can send out the split sample test, they must receive from the horseman, the full amount for shipping and lab fees to cover the cost of the split sample test. Our rules do not provide a time limit for horsemen to send in payment. But it typically takes up to 5 business days for the Commission to receive payment via US mail. By now, *(32 days has passed.)* The Steward’s jurisdiction has already expired, and in most cases, the horseman hasn’t even received their split sample test results back yet.

Once the Racing Commission receives payment, or is notified by the split sample laboratory that payment has been received by them, our rules provide the Commission with up to ten business days for shipment of the samples to the laboratory. *(By now, up to 44 days has passed.)*

Once the split samples have shipped, the time it takes for the lab to return a result is up to the lab. It can take 14 or more days to receive a split sample results back, because it all depends on the lab’s workload and processes. But even with a faster turnaround, the Steward’s jurisdiction has already expired.

The Racing Commission’s overall concern and goal is to establish consistency in the enforcement process, and to ensure every participant is afforded proper time to exercise their due process.

If a Steward’s jurisdiction expires, the Racing Commission will be forced to hire attorneys to act in the place of the Stewards, to bring the case forward once the split sample result comes in. The process at that point is to hire a hearing officer to decide the case. Such an action causes several negative impacts to the horseman in question, but it also negatively impacts the other horsemen who were involved in the race:
1. **Delay in purse money distribution for all winners.** Typically, hearings handled by stewards are resolved the same day of the hearing. Purse money distribution can be done the same day. If attorneys are hired, they will need to have time to become familiar with the case and with racing before they can bring it to a hearing officer. This could take several months more to be resolved. This is important because there are not one but up to five interested parties that have some claim to the purse money. Most purses are divided up amongst the first five finishers. And in racing, purse money is usually used to fund the horseman’s continued participation in more races in Idaho, but also in the larger racing circuit that goes on nationwide. A delay in purse money distribution could significantly impact the livelihood of many owners, trainers, and other persons who make a career of racing.

2. **Delay in publishing of racing win records.** Again, because of the time it would take to bring the case forward to a hearing officer, racing win records would be delayed because final results of the race would still be in question. This is important because a horse’s win record determines whether they are eligible to race in larger stakes races that have very large purses. Though Idaho’s season may have closed, surrounding states where Idaho’s horsemen vigorously participate, continue racing. Delaying a win record could mean a horseman would be denied the chance to compete for a large purse.

3. **Cost of extended time and frustration.** It can be costly and time consuming to go through a hearing process. Horsemen need fast and timely resolutions to race meets so that they can continue to compete.

4. **Loss of the right to a hearing resolved by knowledgeable and licensed Racing Stewards.** Idaho Racing Stewards hold professional licenses to practice. They have completed a national Racing Steward education program, and have passed extensive exams. They are required to annually complete Continuing Education to stay current with changes in the industry, and to conform to national racing standards. Attorneys and hearing officers, though well educated, are not well versed in the nuances of racing.

As it stands now, this problem exists due to the adoption of the ARCI uniform rules back in 2010. Many states have worked closely with the industry in making necessary changes for their particular jurisdictions. In 2016 the Commission worked over the split sample rules and they were passed during the 2016 Legislative session. However at that time we did not address this rule as we were concentrating on the split sample rules.

Our proposed rule will extend the Steward’s jurisdiction from 30 to 90 days, and would provide the Racing Commissioners an option to extend that jurisdiction under a special circumstance—for example, in the case of a horseman-requested continuance that delays the hearing, or if a slow-to-respond lab prolongs the results of a split sample test.

This change does not cost the Commission anything. Because the cost of Stewards is cheaper than attorneys and hearing officers, this rule change could positively impact the Commission financially.

Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is simple in nature.

Thank you for your time. I stand ready to answer any questions you may have.
## AGENDA

**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, January 22, 2018**

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<tr>
<td>VOTE ON GUBERNATORIAL APPOINTMENTS:</td>
<td>The appointment of Brigadier General Michael J. Garshk as Adjutant General of the State of Idaho Military Division.</td>
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<td>The re-appointment of Jeffrey Anderson as Director of the Idaho State Liquor Division.</td>
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<td>The re-appointment of Randolph Hill to the Idaho Energy Resources Authority.</td>
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<td>The appointment of Katie Brodie to the Idaho Commission on Human Rights.</td>
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<td>GUBERNATORIAL APPOINTMENTS:</td>
<td>The re-appointment of Richelle Sugiyama to the Idaho Endowment Fund Investment Board.</td>
<td>Richelle Sugiyama</td>
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<td>The appointment of Gavin Gee to the Idaho Endowment Fund Investment Board.</td>
<td>Gavin Gee</td>
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<td>The appointment of Gavin Gee to the Treasurer's Investment Advisory Board.</td>
<td>Gavin Gee</td>
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<tr>
<td>MINUTES APPROVAL:</td>
<td>January 15, 2018</td>
<td>Senators Hill and Winder</td>
</tr>
</tbody>
</table>

*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**  
Chairman Siddoway  
Vice Chairman Hagedorn  
Sen Hill  
Sen Winder  
Sen Lodge  

**COMMITTEE SECRETARY**  
Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, January 22, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT: The appointment of Brigadier General Michael J. Garshak as Adjutant General of the Idaho Military Division.

MOTION: Senator Winder moved to send the Gubernatorial appointment of Brigadier General Michael J. Garshak as Adjutant General of the Idaho Military Division to the Senate floor with the recommendation that he be confirmed by the Senate. Senator Hill seconded the motion. The motion carried by voice vote. Senator Winder will be the floor sponsor.

VOTE ON GUBERNATORIAL APPOINTMENT: The reappointment of Jeffrey Anderson as the Director of the Idaho State Liquor Division.

MOTION: Vice Chairman Hagedorn moved to send the Gubernatorial reappointment of Jeffrey Anderson as the Director of the Idaho State Liquor Division to the Senate floor with the recommendation that he be confirmed by the Senate. Senator Stennett seconded the motion. The motion carried by voice vote. Vice Chairman Hagedorn will be the floor sponsor.

VOTE ON GUBERNATORIAL APPOINTMENT: The reappointment of Randolph Hill to the Idaho Energy Resources Authority.

MOTION: Senator Stennett moved to send the Gubernatorial reappointment of Randolph Hill to the Idaho Energy Resources Authority to the Senate floor with the recommendation that he be confirmed by the Senate. Senator Buckner-Webb seconded the motion. The motion carried by voice vote. Vice Chairman Hagedorn will be the floor sponsor.

VOTE ON GUBERNATORIAL APPOINTMENT: The appointment of Katie Brodie to the Idaho Commission on Human Rights.

MOTION: Senator Vick moved to send the Gubernatorial appointment of Katie Brodie to the Idaho Commission on Human Rights to the Senate floor with the recommendation that she be confirmed by the Senate. Senator Buckner-Webb seconded the motion. The motion carried by voice vote. Senator Vick will be the floor sponsor.
The reappointment of Richelle Sugiyama to the Idaho Endowment Fund Investment Board (EFIB).

Chairman Siddoway asked for a description of Ms. Sugiyama's responsibilities and experiences while serving on the EFIB.

Richelle Sugiyama introduced herself as an Investment Officer for the Public Employee Retirement System of Idaho (PERSI) seeking reappointment to the EFIB. She had a long time affiliation with this board prior to 2006, when she became a member of the EFIB. She served as the Manager of Investments for an interim period. She stated that it was an honor and privilege to serve with members of the EFIB in assisting with its development and advancement and what it does for the State of Idaho. She served as Vice Chairman during the last year due to the absence of one of the members. Ms. Sugiyama stated she would like to continue serving on the EFIB.

Senator Stennett thanked Ms. Sugiyama for her service and asked her what she thought was the greatest challenge when working with the fund. Ms. Sugiyama said the most challenging objective is to stay the course. When things are progressing well and there is a lot of money, it is difficult to curb the tendency to overspend or relax. It is hard to do nothing at times, even when it is the best thing to do. The most difficult task is reviewing the distribution and spending policies. Those policies keep the fund in check.

Chairman Siddoway asked Ms. Sugiyama to provide a synopsis of the types of investments involved. Ms. Sugiyama answered that the EFIB has a rough allocation of 70 percent equity and 30 percent fixed income. There is also a rough allocation of 55 percent domestic equity, 15 percent international or non-U.S. equity, and 30 percent fixed income. Also, there is a mix of managers for these investments. There is a real estate fund, which is not to be confused with the real estate holdings that the Idaho Department of Lands oversees. The EFIB real estate fund is a commingled fund that invests broadly in commercial real estate across the nation. There are no private equity or hedge funds, so the bulk of the portfolio is extremely liquid. The return on investment is just under 12 percent year-to-date.

Chairman Siddoway asked if the EFIB perceives that the market is going to slow down; if so, are investments being shifted toward a safer market. Ms. Sugiyama responded that they do not make such changes; that would be market timing. The objective is to ensure payouts are consistent and sustainable. When a market downturn occurs, they want to ensure they can continue making payouts to the State of Idaho. The EFIB discusses these issues frequently. Asset allocation means watching the long-term and minimizing the shifts that can impact long-term returns.

Vice Chairman Hagedorn commented that up to 12 percent return on investment was good. He inquired as to the biggest loss during the downturn? Ms. Sugiyama answered that the biggest hits came from the non-U.S. portfolios. There were some performance issues with a couple of the managers and the EFIB was exposed to the emerging market. However, there was a rally during that time. It wasn't a general downturn, it was manager-specific. That is one of the reasons for diversification across the portfolios. Vice Chairman Hagedorn asked by what percent the total fund decreased during the downturn. Ms. Sugiyama stated they did have lower returns but couldn't provide the exact percentage point.

Chairman Siddoway thanked Ms. Sugiyama and introduced Gavin Gee.

The appointment of Gavin Gee to the Idaho Endowment Fund Investment Board.
Gavin Gee stated he has served on the EFIB since 1998. As the Director of the Idaho Department of Finance, he was a statutory member of the EFIB until the Idaho State Constitution was changed in 2000 to allow the fund to invest in equities. He was reappointed at that time. Mr. Gee gave a short history of the EFIB. Presently the market is good but there will be times when the market will be down and returns will not be as good as the nearly 12 percent seen today. Overall, the fund is doing better than it did when the only option was investing in fixed income.

Mr. Gee stated his appreciation for the strong members of the EFIB who understand the market, the way they should be investing; they understand the importance of not overreacting or trying to time the market. They attempt to make wise and prudent investments and have an investment policy that will serve the EFIB and take advantage of all markets. They have not participated in exotic securities or markets; they are relatively conservative. The EFIB has studied the issues and made the decision to avoid higher risk areas of investment. Mr. Gee said that they are on a good course, are mindful of the industry, and have determined the best way to position the fund for the best returns possible.

Senator Stennett welcomed Mr. Gee. She inquired about the most significant operations of the EFIB. Mr. Gee responded that they meet quarterly; more often if needed, and sometimes there are special meetings or conference calls for emergencies. There is always good attendance at the regular meetings. Mr. Gee expanded on urgent meetings. Usually the manager for investments who is a full-time employee, will call or email the EFIB to review the issue. Mr. Gee said he is on a number of boards within the State and nationally and observed that not all boards function as well as the EFIB. The EFIB has great staff that keeps members apprised of current issues. They have professional managers who are very good about keeping the board members informed.

Senator Hill asked about the differentiation between the EFIB and the Treasurer’s Investment Advisory Board (Land Board). He asked if the investment manager hires the fund manager or does he/she make recommendations to the EFIB. Senator Hill also asked if he/she has a vote or does the EFIB make final decisions. Mr. Gee explained that the EFIB hires and has authority over the full-time investment manager with input from the Land Board. The Land Board oversees the EFIB. The investment manager does not have authority to terminate a fund manager. Termination requires approval from the EFIB and the Land Board. Any major decisions are presented to the Land Board. The investment manager is under the authority of the EFIB and he/she is expected to monitor all of the investments. The fund managers have their own managers, boards, and processes. The EFIB does not deal directly with their boards or staff, they assign a representative (fund manager) to the EFIB. Fund managers are very closely monitored.

When the investment manager discovers irregularities which may affect the termination of a manager, it is brought before the EFIB. Such investigations focus on whether the investment manager is operating as they said they would. There are other key points the investment manager looks for when observing the practices of the fund managers. The investment manager observes the fund managers closely and reports any major changes at the firm so the EFIB can be proactive in managing potential changes or losses.

Senator Hagedorn stated his appreciation for Mr. Gee’s activities throughout the State. He said he has been aware of Mr. Gee’s involvement in the State’s banking and investment industries over a long period of time, but is unaware of Mr. Gee speaking publicly about any particular equities or the volatility in the gas and oil
industry until recently when he discussed the volatility of cryptocurrency with the media. He wondered what led Mr. Gee to talk publicly about cryptocurrency and what was his expertise in this area? **Mr. Gee** answered that, as a general rule, the EFIB doesn't make comments about individual stocks or investments. Speeches of this type are sometimes made to banks and financial institutions and sometimes to a broader audience through a press release. The EFIB has monitored cryptocurrency for some time.

**Mr. Gee** briefly explained this complex subject. Bitcoin is the best known cryptocurrency, but there are many others. Cryptocurrency is an unregulated currency. Although governments take positions on the legality of cryptocurrency, they do not sponsor or invest in those currencies. In addition, there is not an underlying government support mechanism for cryptocurrencies; neither is there a clear market. Most countries have rules regarding permitted currency. Regulators are concerned that with no government backing and very little government oversight, there is no mechanism to stop a potential crisis.

As to EFIB's role in cryptocurrency, any person who is a broker of Bitcoin must obtain a license with the EFIB as a money transmitter, because they are transmitting the equivalent of money. It is not like a bank, credit union, or investment broker; those are heavily regulated. There is minimal regulation, but they do conduct examinations of those entities. Cryptocurrency is not regulated to the extent that federally printed currency is regulated. Regulators are also concerned about the difficulty in determining who is using Bitcoin. There is no ability to trace wrongdoing or criminal activity.

Volatility of the value of Bitcoin or other similar currencies is another concern. Unsophisticated investors buy with the hope of making a lot of money; that doesn't happen very often. The U.S. heavily regulates financial markets, securities, and instruments so it would be a surprise if the cryptocurrency market continues to be unregulated.

**The appointment of Gavin Gee to the State Treasury Investment Advisory Board.**

**Gavin Gee** stated he is the Director of the Idaho Department of Finance, which is his primary role with the State, but he also serves on a number of boards and committees, one of those organizations is the State Treasury Investment Advisory Board (Board). **Mr. Gee** emphasized the word "Advisory" because they have no authority to order the Treasurer to make or sell certain investments. The Board can only make recommendations to the Treasurer. By statute, they meet quarterly at the call of the Treasurer; he also serves as the chairman of the Board.

A recent recommendation that the Board thought to be important concerned an annual audit. Currently, the Treasurer's investments are not audited by an outside auditing firm by law. The Board recommended: 1.) to have an annual public audit, and 2.) that the Treasurer seek reimbursement for the cost of the audit as part of the budget. This practice is now in place.

**Chairman Siddoway** thanked Mr. Gee for his service on these boards.

**MINUTES APPROVAL:**

*Senator Winder* moved to approve the minutes of January 15, 2018. *Senator Stennett* seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business, Chairman Siddoway adjourned the meeting at 8:50 a.m.
AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 24, 2018

SUBJECT | DESCRIPTION | PRESENTER
--------|-------------|-------------
VOTE ON GUBERNATORIAL APPOINTMENTS: | The re-appointment of Richelle Sugiyama to the Idaho Endowment Fund Investment Board. | |
| The appointment of Gavin Gee to the Idaho Endowment Fund Investment Board. | Kelli D Brassfield, Idaho Association of Counties |
| The appointment of Gavin Gee to the Treasurer's Investment Advisory Board. | |

RS25865 | RELATING TO ELECTIONS to revise the minimum age for a student to be appointed to an election board. | Kelli D Brassfield, Idaho Association of Counties |

RS25887 | RELATING TO ELECTIONS to provide for the submission and approval of an early voting plan. | Kelli D Brassfield, Idaho Association of Counties |

S 1214 | RELATING TO STATE VETERANS CEMETERIES to revise language regarding state veterans cemeteries and make technical corrections. | Tracy Schaner, Division of Veterans Services |

*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
e-mail: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 24, 2018
TIME: 8:00 A.M.
PLACE: Room WW55

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT:

MOTION: Senator Winder moved to send the Gubernatorial reappointment of Richelle Sugiyama to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that she be confirmed by the Senate. Senator Hagedorn seconded the motion. The motion carried by voice vote. Senator Stennett will be the floor sponsor.

VOTE ON GUBERNATORIAL APPOINTMENT:

The reappointment of Richelle Sugiyama to the Idaho Endowment Fund Investment Board.

MOTION: Senator Winder moved to send the Gubernatorial appointment of Gavin Gee to the Idaho Endowment Fund Investment Board to the Senate floor with the recommendation that he be confirmed by the Senate. Senator Hill seconded the motion. The motion carried by voice vote. Senator Winder will be the floor sponsor.

VOTE ON GUBERNATORIAL APPOINTMENT:

The appointment of Gavin Gee to the Treasurer's Investment Advisory Board.

MOTION: Senator Buckner-Webb moved to send the Gubernatorial appointment of Gavin Gee to the Treasurer's Investment Advisory Board to the Senate with the recommendation that he be confirmed by the Senate. Senator Winder seconded the motion. The motion carried by voice vote. Senator Hill will be the floor sponsor.

RS 25865 RELATING TO ELECTIONS to revise the minimum age for a student to be appointed to an election board.

Chairman Siddoway welcomed Kelli Brassfield to present RS 25865 and RS 25887.

Kelli Brassfield stated she is with the Idaho Association of Counties (IAC) to present RS 25865. This legislation reduces the age of students permitted to work at the election polls from 17 to 16 years of age. That change will broaden
the base for poll workers and will allow students to gain more experience with elections. Ms. Brassfield asked that RS 25865 be introduced for printing.

Senator Hagedorn commented that, in his experience, it is difficult to find people to help facilitate elections. He noted that high school students would be of help.

**MOTION:** Senator Hagedorn moved to send RS 25865 to print. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

**RS 25887** RELATING TO ELECTIONS to provide for the submission and approval of an early voting plan.

Kelli Brassfield, IAC, explained that the counties are required to file a Ballot Security Plan with the Secretary of State (SOS) for each county holding early voting. This has the potential for there to be four plans per year. This legislation would permit the filing of one plan per year. Any change would require filing a modified plan. Ms. Brassfield asked that RS 25887 be introduced for printing.

Senator Winder asked for an explanation of what is meant by "security" in this context. Ms. Brassfield said that an early voting Ballot Security Plan would be submitted to the SOS and would detail the exact process, poll locations, equipment, and systems to be used within the county, so that IAC and the SOS would be informed as to the precise process.

**MOTION:** Senator Anthon moved to send RS 25887 to print. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

**S 1214** RELATING TO STATE VETERANS CEMETERIES to revise language regarding state veterans cemeteries and make technical corrections.

Tracy Schaner, Deputy Administrator of the Idaho Division of Veteran Services, said she is presenting S 1214 for the potential establishment of a second cemetery to be located in Blackfoot, Idaho. The bill contains simple amendments and technical corrections to Idaho Code §§ 54-1114, 65-108, 64-202, and 65-204. As proposed, these technical corrections will provide proper reference for one or multiple State veterans cemeteries.

Recently, the Veterans Cemetery Grants Program (Program) released the FY2018 pending projects. Based on the initial priorities list, Idaho currently ranks number 27 out of 105 pre-applications. It is expected that the Program will fund up to number 19 on the priority list, although some states may defer the funding opportunity. James Earps, Cemetery Director, Idaho State Veterans Cemetery, remains in close contact with the Program. Idaho will have a grant opportunity if there are no deferments in October 2018. Substantial progress has been made in the completion of all required documents, including master planning and the completion of the master schematic design. Idaho is in a strong position to accept and proceed with the grant opportunity once it is offered. Ms. Schaner asked that S 1214 be approved as presented.

**MOTION:** Senator Hagedorn stated that it was fortunate that the Veterans Recognition Fund was able to make the down payment on the land. Senator Hagedorn moved to send S 1214 to the floor with a do pass recommendation. Senator Winder seconded the motion. The motion carried by voice vote. Senator Hagedorn will be the floor sponsor.

**ADJOURNMENT:** There being no further business, Chairman Siddoway adjourned the meeting at 8:14 a.m.

___________________________
Senator Siddoway, Chair

___________________________
Twyla Melton, Secretary
AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, January 26, 2018

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<tr>
<th>SUBJECT</th>
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<tr>
<td>GUBERNATORIAL APPOINTMENTS</td>
<td>The reappointment of L. Daniel Cravens to the Idaho Commission on Human Rights (telephone interview).</td>
<td>L. Daniel Cravens,</td>
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<td>The appointment of Valisa Say to the Bingo-Raffle Advisory Board (telephone interview)</td>
<td>Valisa Say</td>
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<td>The appointment of Michael Elliot to the Idaho Energy Resources Authority.</td>
<td>Michael Elliot</td>
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<td>The reappointment of Melville Fisher II to the Idaho Lottery Commission.</td>
<td>Melville Fisher II</td>
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<td>The reappointment of Timothy Anderson to the State Building Authority.</td>
<td>Timothy Anderson</td>
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<tr>
<td>S 1213</td>
<td>RELATING TO THE ENDOWMENT FUND INVESTMENT BOARD to revise compensation provisions regarding board members.</td>
<td>Chris Anton, Endowment Fund Investment</td>
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</tbody>
</table>

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, January 26, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Winder, Lodge, Vick, Anthon, Stennett, and Buckner-Webb
ABSENT/EXCUSED: Senator Hill
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.
CONVENELED: Chairman Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENT: The reappointment of L. Daniel Cravens to the Idaho Commission on Human Rights (telephone interview).

Chairman Siddoway welcomed Mr. Cravens and requested he provide details about his past service on the Commission and some of his accomplishments and challenges.

Larry Daniel Cravens said he lives in Blackfoot, Idaho, with his wife and three children. He explained he is involved in different civic organizations in Bingham County and Southeastern Idaho. He is also a member of the Executive Board of Directors of the Regional Economic Development Corporation for Eastern Idaho. Mr. Cravens stated he currently is employed by the College of Business at Idaho State University.

Mr. Cravens stated he was originally appointed to the Idaho Commission on Human Rights (Commission) to complete an unexpired term. He was subsequently nominated by Governor C. L. "Butch" Otter. His interest in the Commission stems from work with assisted technology that allows individuals with disabilities to engage in learning and training. Mr. Cravens said the current challenge for the Commission is the result of turnover in staff and a new director, although the change has been positive.

Senator Stennett inquired as to what Mr. Cravens thought was most challenging about this position. Mr. Cravens answered raising awareness about the Commission and educating people as to what the Commission does. A majority of Idahoans do not know what the Commission does or the rights it protects. Senator Stennett asked what could be done differently to raise awareness. Mr. Cravens responded that greater outreach to the community and citizens through the news media would be an effective tool.

Senator Buckner-Webb asked if, considering the amount of growth in Idaho, the Commission has an adequate number of investigators to support the Commission's work. Mr. Cravens stated it was more of an issue of experience. There is an adequate number of investigators and the new investigators will become more efficient over time.
Chairman Siddoway referred to the recent media coverage about abuses. He asked Mr. Cravens if he has seen an increase in the number of people initiating abuse or harassment complaints. Mr. Cravens replied that the short answer is no. However, it takes time for a complaint to be filed and investigated before it reaches the Commission; there is usually a delay of several months.

Vice Chairman Hagedorn thanked Mr. Cravens for his service on so many boards and commissions. He asked Mr. Cravens if, considering his experience, there was anything about the Commission that surprised him. Mr. Cravens responded that he was well versed on the Commission when he accepted the first appointment. Before he joined the Commission, he worked for the Idaho Department of Labor (DOL). The Commission is an agency within the DOL, so he had the opportunity to become familiar with it.

**Gubernatorial Appointment: The appointment of Valisa Say to the Bingo-Raffle Advisory Board (Board) (telephone interview).**

Valisa Say, Executive Director, Idaho Falls Senior Citizens Community Center (Center), said she has been with the Center since 2006 and the Executive Director since 2009. The Center has held a charitable gaming license since 2013 and is in good standing with the Idaho Lottery Commission. Through charitable bingo, over $14,000 was raised for the Center in 2017. These funds assisted the Center with its nutrition programs. Ms. Say said she is very new to this position on the Board.

Senator Stennett asked how long the region was without a board member. She wondered if Ms. Say had the opportunity to become acquainted with her responsibilities. Ms. Say answered that she assumed the position a few weeks ago. Senator Stennett asked what made her decide to accept this appointment. Ms. Say responded that she wanted to represent the eastern area of Idaho so that the rules would be followed.

Vice Chairman Hagedorn asked, as a user, if Ms. Say noticed anything she would like to see improved. Ms. Say said that she has read Idaho Code, Chapter 77, Title 67, and the process seems to be working well.

Chairman Siddoway inquired if there would be any conflict of interest between activities at the Center and the requirements of the Board. Ms. Say answered that she could separate the two areas and do what is best for each entity.

**Gubernatorial Appointment: The appointment of Michael Elliot to the Idaho Energy Resources (IERA).**

Michael Elliot stated his background is in electrical engineering; he has about 45 years of experience in that area. He has been asked to fulfill the term of E. Robert Mooney. He has worked with Mr. Mooney since 1976 and was familiar with his actions on this IERA.

Mr. Elliot said the mission of the IERA is energy related lending and financing. It is to help the municipalities and cooperatives in the State in terms of the electrical facilities and needs for generation and transmission of electricity. In addition to Idaho Power, Rocky Mountain Power, and Avista Power, there are over 20 other electric utilities in the State - most of which are Bonneville Power Administration (BPA) customers. The IERA finds projects for infrastructure, transmission, and generation on behalf of those utilities. The IERA has been developing several new bond issues. In September 2017, the IERA sold $200 million of bonds that are fully backed by BPA for repayment. They are evaluating another $180 million for 2018. In addition, they are investigating other projects such as the Horse Thief Wind Farm. Mr. Elliot hopes his experience in energy engineering with utilities will benefit the IERA.
**Senator Winder** acknowledged the importance of the IERA to rural Idaho. He asked Mr. Elliott to discuss how the IERA is important and provide some history about some of the projects. **Mr. Elliott** explained the nature of the IERA is to secure the infrastructure necessary for the transmission and generation facilities to supply power to rural Idaho. The municipalities determine what their needs are and the IERA works toward addressing those needs. These are needs BPA cannot fulfill. The Bonneville Lending Program can apply directly to those needs.

**Senator Sten nett** referred to a Canadian company providing power to Northern Idaho; she asked Mr. Elliott what his perception is for the opportunity to conduct projects with this company. **Mr. Elliott** said he has not had the opportunity to pursue this, although they are talking with communities in northern Idaho.

**Vice Chairman Hagedorn** inquired about the growth of solar and wind power. He asked how adding those producers into the grid will raise the costs for BPA and hydropower. **Mr. Elliott** answered solar and wind are viable, but they do require subsidies to make them profitable and to attract developers. As long as the subsidies exist, viability will exist. However, renewables are not the complete answer; having immediate access to power is critical. A mix of all sources of energy such as hydro, gas-fired, coal-fired, and renewables, is important. **Vice Chairman Hagedorn** asked about the current capacity for BPA; he wondered if they are at maximum capacity. **Mr. Elliott** said BPA has the mechanisms to supply that power. They have met the needs through funding programs such as the IERA.

**Senator Vick** asked Mr. Elliott what he learned from his experiences in working with the nations of Afghanistan and Georgia that would help him in this position. **Mr. Elliott** stated he learned design methods and the differences between foreign processes and United States (U.S.) processes; the materials they use are entirely different from the U.S. The technical exchange benefited both parties.

**Senator Anthon** inquired as to Mr. Elliott’s thoughts on discussions about breaching the Columbia and Snake dams. **Mr. Elliott** stated, in his personal opinion the dams should not be breached. The dams are paid in full; the energy generated from those dams is essentially free. Breaching would be a loss to the area, and he is not convinced the dams are damaging the environment. He emphasized this was only his opinion.

**Chairman Siddoway** asked if the IERA has been approached by any municipalities about funding a NuScale nuclear project. **Mr. Elliott** said, to date, the IERA is not involved in that project. However, they have had some conversations with cities such as Idaho Falls, who also has a relationship with the Idaho National Laboratory (INL) about NuScale. Idaho Falls is also involved with Utah Associated Municipal Power Systems (UAMPS). UAMPS serves approximately 40 utilities in Idaho, Utah, Colorado, and Wyoming. UAMPS is working with Idaho Falls and INL on the development of small nuclear reactors.

**GUBERNATORIAL APPOINTMENT:**

The reappointment of Melville Fisher II to the Idaho Lottery Commission.

**Melville Fisher** stated he is currently a member and Chairman of the Idaho Lottery Commission (Commission). It is his fourth appointment. He outlined the attributes of the Commission: they are successful, transparent, and responsible. He is very happy to be associated with such an organization. The Commission has four meetings each year, but have additional interim meetings as needed. It is important to have continuity; however, it takes a period of time to attain the background needed to meet the needs of the Commission. **Mr. Fisher** stated he is confident that he has that background, and would like to continue to serve.
Chairman Siddoway expressed concern that technology has produced machines that are similar to slot machines. He is also concerned about the people who buy lottery tickets instead of providing for the material needs of their family. He inquired as to the types of programs the Commission supports that address gambling addiction. Mr. Fisher explained they are aware of the prohibition on casino gaming. The machines operate similar to a person scratching a ticket, except the machine scratches the ticket for them. They are aware that gambling can be an addictive activity. There is a phone number for the Department of Idaho Health and Welfare – 211 – where problem addictions can be reported. The lottery is not a stimulation type of game that leads to addiction. The Commission has not seen any reports of people spending their last dollar to purchase a lottery ticket. As the jackpot amount increases, the Commission increases the "play responsibly" ads.

Vice Chairman Hagedorn asked how vendors are managed. He inquired as to how effective the Commission is at driving costs down. Mr. Fisher replied that they constantly monitor the vendors. When a Request for Proposal is advertised, they generally get multiple bids. The Commission looks at the proposal and the background of the company. They constantly do their due diligence. All major contracts are brought before the Commission, so they are aware of all the details. The staff does a phenomenal job of vetting vendors.

GUBERNATORIAL APPOINTMENT:

The reappointment of Timothy Anderson to the State Building Authority.

Timothy Anderson stated he is a Certified Public Accountant. He lives in Pocatello, Idaho with 25 years of professional experience. Mr. Anderson explained that he filled a position on the State Building Authority (SBA) four years ago. The SBA serves at the pleasure of the Legislature. There was a period of time without projects; however, 12 months ago several projects came before the SBA. The SBA meets one or two times a year unless there are active projects. Last year, the SBA was asked to secure funding to purchase and construct two buildings in Idaho Falls and to acquire the Hewlett-Packard Campus (HP) in Ada County. Those are ongoing projects.

Senator Stennett asked if Idaho has enough inspectors available, given the current growth across the State. Mr. Anderson replied that the HP campus will provide growth for decades. HP has agreed to lease back several of those buildings; those leases will pay the bonds for the near future while the State slowly migrates departments to that location. The current square footage leased in the Boise area by different State departments is enormous and that space is becoming scarce and expensive.

Chairman Siddoway inquired if there were any concerns with the buildings or access to technology at HP that would require a large amount of repair to make it habitable for the State. Mr. Anderson said he is not involved on a day-to-day basis. However, there have been many conversations with attorneys and HP; they have obtained environmental studies regarding the property and the Department of Environmental Quality has approved the location. The facility is fairly modern and is up to date. There will be renovations to customize each area for the departments.

S 1213

RELATING TO THE ENDOWMENT FUND INVESTMENT BOARD (EFIB) to revise compensation provisions regarding board members.
Chris Anton, Manager of Investments, EFIB, explained that S 1213 proposes to increase the per diem honorarium for the EFIB members from $50 to $100. The purpose is to retain the EFIB and to recognize the efforts they make as fiduciaries for the $3 billion in investable funds. The per diem was last increased in 1992. The cost is estimated to be less than $2,000 per year; the funds would come from funds that are managed rather than the General Fund.

Vice Chairman Hagedorn asked if failure to provide a $50 increase in pay per day would have enough of an impact to preclude them from continuing on the EFIB. Mr. Anton responded that the EFIB members do not do this for the money; however, an increase is a symbolic gesture to express appreciation for their efforts. It would help the members who travel from out of town.

Senator Winder advised the Committee that he serves as a member of the EFIB without compensation; there could be a potential conflict. He intends to vote.

MOTION: Senator Vick moved to send S 1213 to the floor with a do pass recommendation. Senator Lodge seconded the motion.

Vice Chairman Hagedorn acknowledged that those serving on the EFIB were to be commended. However, he could not support the bill. There could be better ways to show appreciation. This would not have a great impact, it is more of a symbolic gesture.

Senator Winder clarified that this money would not and cannot come from the endowment funds. The EFIB charges administrative fees for managing funds for various entities.

The motion carried by voice vote. Senator Hagedorn was recorded as voting nay.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 9:00 a.m.
**AMENDED AGENDA #1**  
**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, January 29, 2018**

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<tr>
<td><strong>RS25786</strong></td>
<td>A CONCURRENT RESOLUTION to honor the Idaho Community Foundation on its thirtieth anniversary.</td>
<td>Senator Nye</td>
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<td><strong>RS25872</strong></td>
<td>RELATING TO ABORTION to require certain information.</td>
<td>Senator Den Hartog</td>
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<td><strong>H 378</strong></td>
<td>RELATING TO THE SECRETARY OF STATE to revise provisions regarding the duties of the Secretary of State.</td>
<td>Tim Hurst, Chief Deputy, Secretary of State</td>
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*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**
- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge

**COMMITTEE SECRETARY**
- Twyla Melton  
- Room: WW42  
- Phone: 332-1326  
- email: sstaf@senate.idaho.gov
## MINUTES

### SENATE STATE AFFAIRS COMMITTEE

**DATE:** Monday, January 29, 2018  
**TIME:** 8:00 A.M.  
**PLACE:** Room WW55  
**MEMBERS PRESENT:** Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

**VOTE ON GUBERNATORIAL APPOINTMENT:** The reappointment of L. Daniel Cravens to the Idaho Commission on Human Rights.

**MOTION:** Senator Hagedorn moved to send the gubernatorial reappointment of L. Daniel Cravens to the Idaho Commission on Human Rights to the floor with the recommendation that he be confirmed by the Senate. Senator Buckner-Webb seconded the motion. The motion carried by voice vote. Senator Bair will be the floor sponsor.

**VOTE ON GUBERNATORIAL APPOINTMENT:** The appointment of Valisa Say to the Bingo-Raffle Advisory Board.

**MOTION:** Senator Hagedorn moved to send the gubernatorial appointment of Valisa Say to the Bingo-Raffle Advisory Board to the floor with the recommendation that she be confirmed by the Senate. Senator Lodge seconded the motion. The motion carried by voice vote. Senator Potts will be the floor sponsor.

**VOTE ON GUBERNATORIAL APPOINTMENT:** The appointment of Michael Elliot to the Idaho Energy Resources Authority.

**MOTION:** Senator Winder moved to send the gubernatorial appointment of Michael Elliot to the Idaho Energy Resources Authority to the floor with the recommendation that he be confirmed by the Senate. Senator Hill seconded the motion. The motion carried by voice vote. Senator Hagedorn will be the floor sponsor.

**VOTE ON GUBERNATORIAL APPOINTMENT:** The reappointment of Melville Fisher II to the Idaho Lottery Commission.

**MOTION:** Senator Vick moved to send the gubernatorial reappointment of Melville Fisher II to the Idaho Lottery Commission to the floor with the recommendation that he be confirmed by the Senate. Senator Lodge seconded the motion. Senator Winder invoked Senate Rule 39 indicating that he intended to vote. The motion carried by voice vote. Senator Vick will be the floor sponsor.
The reappointment of Timothy Anderson to the State Building Authority.

Senator Winder moved to send the gubernatorial reappointment of Timothy Anderson to the State Building Authority to the floor with the recommendation that he be confirmed by the Senate. Senator Lodge seconded the motion. The motion carried by voice vote. Senator Winder will be the floor sponsor.

The reappointment of Sheila Olsen to the Idaho Commission on Human Rights (Commission).

Chairman Siddoway introduced Sheila Olson and asked her to tell the Committee about her experience on the Commission. He also asked her to discuss what she sees as the issues today, and if those issues are changing.

Sheila Olson stated it was a privilege to be in front of the Committee and to be reappointed to the Commission. She was originally appointed by Governor Phil Batt. Ms. Olsen said she is involved with a lot of organizations and the one that brings her the most pleasure and fulfillment is the Commission. One surprising element was the absolute fairness of the Commission. She asserted the Committee can feel very good about the caliber of the nine Commissioners.

Ms. Olsen said she did not see the need for great improvement. She prefers they continue what they are doing; it is fair and everyone has a voice. She explained how the process works.

Senator Hill asked what recourse was available for those who disagreed with the results. Ms. Olsen replied that they have the right to appeal. Written notification of the right to appeal is included with notification of the final result. Senator Hill inquired about the percentage of cases that go to appeal. Ms. Olsen stated that it is small.

Vice Chairman Hagedorn thanked Ms. Olsen for her many years of service to Idaho. He inquired as to her thoughts about the ability of the Commission to respond to the cases they hear. Ms. Olsen answered that there is a good balance with nine people throughout the State, and they all work for the good of Idaho.

Senator Buckner-Webb stated her appreciation for Ms. Olsen's work for human rights in Idaho. She noted that in the past, the Commission asked for subpoena power. She inquired as to the status of subpoena power? Ms. Olsen was not aware of that issue.

Chairman Siddoway stated his thanks for Ms. Olsen’s years of service to the State of Idaho. The vote will be taken up at the next scheduled meeting.

RELATING TO ABORTION to require certain information.

Senator Den Hartog, District 22, explained that RS 25872 proposes to add subsection (f) to Idaho Code §18-6092, which is Idaho’s informed consent statute for women considering an abortion. The new subsection (f) directs the Idaho Department of Health & Welfare (H&W) to add language to their existing informed consent materials. The additional language would direct a patient where to find information or a health care provider who can answer questions related to the potential to reverse chemical abortion.

Senator Den Hartog provided some national statistics related to chemical abortions and explained the process for a chemical abortion. There has been some research which has been successful in the reversal of the effects of the first abortion-inducing drug. That protocol was developed by Drs. George Delgado, and Mathew Harrison, who have successfully reversed the effects of
mifepristone by giving the patient progesterone within 24 hours of the patient taking the first pill and continuing that treatment throughout the first trimester. This may be an option for women who have taken the first abortion-inducing drug but find they have changed their mind and seek to continue with their pregnancy. Senator Den Hartog pointed to a small clarification in subsection (e which modified the language );"hear the heart tone" to say "observe the heartbeat."

**MOTION:** Senator Anthon moved to send RS 25872 to print. Senator Vick seconded the motion.

Senator Buckner-Webb said there is no scientific data, according to the American College of Obstetricians and Gynecologists, to say this was effective. Senator Den Hartog responded that Dr. Harrison will be here when the bill has a full hearing. There has been research on a small sample size. The doctors now have a larger sample size. That research has been submitted to a journal, but the final article has not been published.

The motion carried by voice vote. Senators Stennett and Buckner-Webb voted nay.

**RS 25786**

A CONCURRENT RESOLUTION to honor the Idaho Community Foundation on its thirtieth anniversary.

Senator Mark Nye, District 29, explained that RS 25786 recognizes one of the most well-known and successful foundations in Idaho, the Idaho Community Foundation (IFC), as it celebrates its 30th anniversary.

Vice Chairman Hagedorn moved to send RS 25786 to print. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

**H 378**

RELATING TO THE SECRETARY OF STATE to revise provisions regarding the duties of the Secretary of State.

Chad Houck, Deputy Secretary, Secretary of State (SOS), said he is appearing on behalf of Tim Hurst. H 378 is intended to remove the requirement for candidates of local political subdivisions and smaller offices to file campaign finance reports electronically. Smaller jurisdictions do not have the technology to comply. Legislation will be introduced in 2019 to re-establish the electronic reporting requirement. The software that will enable these jurisdictions to report will be coming forward in a bill later this session. H 378 carried an emergency condition making it retroactive and immediate.

Senator Lodge asked, if the jurisdiction has the technology to file electronically, may they do so. Mr. Houck answered that H 378 does not take away the ability to file electronically; it simply removes the requirement.

Senator Stennett asked what percentage of jurisdictions were not able to comply or had difficulty with the Request of Exemption. Mr. Houck said he didn't have that information, but he would be glad to contact Betsie Kimbrough, State Elections Director, to get that statistic. Senator Stennett stated that the upcoming legislation requires more reporting, and voiced her concern about the penalties attached if there was noncompliance. She asked Mr. Houck if he believed the new software will solve all of these problems within a one-years timeframe. Mr. Houck explained the SOS is looking forward to software that will allow them to provide smaller jurisdictions with software from the SOS, instead of them acquiring it. This will enable those jurisdictions to accommodate local filings in an easier way. This will also allow a level of standardization, and communities will be able to see certain reports that they cannot currently see.
**Senator Stennett** added her concerns about jurisdictions who had only a fax machine and/or were without computers or good broadband. She queried how optimistic we might be about this kind of transition. **Mr. Houck** explained that the challenge was in the ability to process, not necessarily to transmit. There have been a very small number of requests for waivers; with access to the software, there is a high level of confidence that in two cycles, this process will be actively in place.

**Senator Vick** referred to the Statement of Purpose that says, "to remove the requirement that candidates for local political subdivision offices file campaign finance reports electronically." it would seem to remove the requirement for everyone. **Mr. Houck** indicated that there were two divisions when this was enacted in 2017. There was the State that had to file online with the SOS. The second part was filing electronically with county, local jurisdiction, or small, special districts. **H 378** removes electronic filing from the language for the second part until such time they can be provided with a better option.

**MOTION:** **Senator Lodge** moved to send **H 378** to the floor with a do pass recommendation. **Senator Stennett** seconded the motion. The motion carried by voice vote.

**ADJOURNMENT:** There being no further business, Chairman Siddoway adjourned the meeting at 8:30 a.m.
## AMENDED AGENDA #1
### SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, January 31, 2018

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<tr>
<td>Idaho National Laboratory Presentation to the Legislature</td>
<td>Dr. Mark Peters, Laboratory Director</td>
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<td>Utah Associated Municipal Power Systems (UAMPS)</td>
<td>Doug Hunter, Chief Executive Officer</td>
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<td>NuScale</td>
<td>John Hopkins, Chief Executive Officer</td>
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### COMMITTEE MEMBERS
- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge
- Sen Vick
- Sen Anthon
- Sen Stennett
- Sen Buckner-Webb

### COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
e-mail: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 31, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, and Buckner-Webb
ABSENT/EXCUSED: Senator Stennett
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 Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT:

MOTION: Senator Buckner-Webb moved to send the Gubernatorial reappointment of Sheila Olsen to the Idaho Commission on Human Rights to the Senate floor with the recommendation that she be confirmed by the Senate. Senator Lodge seconded the motion. The motion carried by voice vote. Senator Buckner-Webb will be the floor sponsor.

MOTION: RS 25958 RELATING TO TOBACCO to revise the legal age regarding activities related to tobacco, tobacco products, and e-cigarettes; and other technical revisions.

Chairman Siddoway welcomed Senator Martin to present RS 25958.

Senator Martin stated that RS 25958 raises the age to purchase tobacco products from 18 to 21. The change will include technical revisions to sections of Idaho Code, Title 39, Chapter 57 regarding definitions, provisions, and enforcement.

MOTION: Senator Lodge moved to send RS 25958 to print. Senator Anthon seconded the motion. The motion carried by voice vote.

PRESENTATION: Chairman Siddoway introduced Dr. Mark Peters, Director of the Idaho National Laboratory (INL).

Dr. Peters provided a general update on Idaho National Laboratory (INL) (Attachment 1). INL is the sixth largest private employer in Idaho. In fiscal year (FY) 2017, 4,256 people were employed at INL with an average base salary of $95,768, nearly $140 million was spent with Idaho-based subcontractors, and INL contributed more than $610,000 to charitable giving. INL is comprised of a Research and Education campus in Idaho Falls and 890 square miles of Idaho land. They have four reactors, a substation, and an on-site grid. INL's infrastructure includes over 400 buildings, three fire stations, and a mass transit system.

He reviewed the laboratory's performance, strategy, and focus. Dr. Peters stated highlights of FY 2017 included a visit from Rick Perry, United States Secretary of Energy, and for the fourth year in a row, they have received a grade of 97 on their annual
evaluation from the United States Department of Energy (DOE). Due to this sustained performance, INL's contract has been extended to 2024. While there are still challenges pertaining to an aging workforce, they expect to see continued growth in the next several years.

INL maintains an operating budget of just over $1 billion. The DOE provides 49 percent of the total funding, the National Nuclear Security Administration contributes 15 percent, and the remaining portion is from a combination of other agencies. While a large percentage of the money received from direct programs goes to overhead, focus has shifted from general management to investing in infrastructure. They continue to diversify their portfolio and are strategic in how they operate.

Dr. Peters stated that, strategically, they were able to quickly align their priorities with the current administration. They continue to be a leader in research, development, deployment, and demonstration. He emphasized that having a grid on-site was unique to their lab and important for simulation purposes.

INL's strategic goals are transforming their infrastructure, systems, and processes to enable modern science, build stronger academic partnerships, and collaborate within the community and State. Future investments include planned campus/complex modifications and three new buildings to be constructed over the next four or five years to support science and technology. The Cybercore Integration Center and Collaborative Computing Center are two new facilities that were approved last year and are being built in partnership with the Idaho State Board of Education.

The Center for Advanced Energy Studies (CAES) is a research and education consortium that provides collaboration between INL, the DOE, and Idaho universities. CAES provides research and education on both technical and policy issues. The Idaho Regional Optical Network (IRON) works with INL and Idaho universities and colleges to help develop an educational ecosystem across Idaho. They invest their resources to meet STEM Action Center (Science, Technology, Engineering, and Math) goals, target rural and underdeveloped areas in the State of Idaho, and implement inclusion and diversity programs.

Dr. Peters discussed four critical initiatives INL is focused on to meet their goals:

1. Sustain the use of existing fleet reactors.
2. Add a national repository for secure storage of spent nuclear fuel.
3. Ongoing development of hybrid energy systems using both renewable and traditional sources.
4. Ensuring national security by involving cyber and physical security with the focus being operational technology cyber security.

Chairman Siddoway questioned the storage problems relating to spent nuclear fuel and whether research was being conducted on burner reactors.

Dr. Peters replied that both EBR1 and EBR2 were breeders that could be used to burn spent fuel. Recycling the material is an option and there is research underway on a test version of a burner reactor. Federal policy is to dispose of spent fuel directly into a repository. The question is more of a policy consideration than a technological consideration.

Senator Hill asked if INL is concentrating on cyber security as it pertains to nuclear and energy facilities or in a broader approach. Dr. Peters stated that it is wide-ranging because they work with many agencies. Also, the research and development work they do in cyber security helps attract and obtain graduates from universities. Senator Hill inquired if there is collaboration with the universities..
to provide specific degrees and curriculum relative to INL. Dr. Peters responded they are developing programs with universities and colleges.

PRESENTATION: Chairman Siddoway introduced Doug Hunter, Chief Executive Officer (CEO) of Utah Associated Municipal Power Systems (UAMPS).

Mr. Hunter provided a brief overview of UAMPS. UAMPS is a nonprofit, project-based, energy services-related organization that started in 1980. They currently have 46 members in six Western states who offer reliable, clean energy at a reasonable price to their members. Energy sources used in their projects include solar, coal, wind, geothermal, natural gas, and hydro-energy. The energy services industry is changing. Governmental and environmental changes are no longer the main driving force. There has been a major shift in focus toward 100 percent clean energy portfolios; customers want to use electricity more efficiently. However, renewables, are inexpensive, varied, and inconsistent.

Mr. Hunter remarked that the Carbon Free Power Project incorporated both energy efficiency and distributed generation that customers desire. Nuclear power has the potential to provide 100 percent clean energy at a competitive cost; small modular reactors can provide a base load supply in the future. The reactors offer greater scalability, siting flexibility, and a low initial capital investment. Loads can be scaled out over time, they are small in size, competitive in price, and are a resource available for up to 80 years. The estimated upper price is 6.5 cents per kWh with a low range cost of 4.5 cents per kWh.

Vice Chairman Hagedorn asked who would be financing the project and if there was a payment plan available. Mr. Hunter replied that they anticipate 100 percent debt financing: 1.) tax exempt municipal bonds, and 2.) DOE’s loan guarantee program. Initial financing will be at 25 percent of total cost. Repayment will begin in 2026 when they plan to go commercial. There is a rate covenant that will back the loan through the sale of kWh.

Vice Chairman Hagedorn asked if 2026 was the target year to sell commercial power. Mr. Hunter replied they anticipate placing the first module in January 2026 and the last in 2027.

Senator Anthon asked if more municipalities or partners would have the opportunity to buy-in as the project proceeds. Mr. Hunter stated that they are not presently at full subscription but anticipate - if they get to full subscription - the possibility of adding an additional facility. Senator Anthon commented that he could see how the project would be desirable to other communities as economic development continued into Tier 2 levels.

Vice Chairman Hagedorn asked if the long-term philosophy was to have five or six small modular reactors for different sites or regions. Mr. Hunter replied that would be ideal, but the use of "brownfield sites" arises. These sites already have the infrastructure of water and land and are the most likely spots to deploy the next batches.

PRESENTATION: Chairman Siddoway introduced John Hopkins, CEO of NuScale.

Mr. Hopkins stated that the NuScale project started 18 years ago when the DOE challenged Dr. Jose Reyes of Oregon State University (OSU) to design a new reactor with safety in mind. Seven years into the project, they saw the potential for commercial viability and set out to fund the project. In 2013, the DOE notified NuScale and INL they had been awarded $226 million. The funds would be disbursed over a five-year period to help them progress through the nuclear regulatory licensing process. Combined investments to date total over $700 million.
Mr. Hopkins asserted, in terms of safety, NuScale’s design is revolutionary. It requires no electrical power to safely shut down. They are close to approval of an Emergency Planning Zone (EPZ) at the plant site boundary. With a reduced EPZ and the NuScale plant located on a retired coal site, existing resources can be leveraged. More importantly, there is the potential to cross-train the existing work force which would preserve jobs. One old container will hold 126 small modular reactors. Not only are the modular reactors smaller, they require no piping, are placed below ground, are independent of one another, and can be used for different processes.

NuScale is expecting to have the power plant operational by 2026. He stated they currently have 460 people in five states working on the project. They anticipate completing the technical review by the end of 2018. The remainder of the process will be primarily legal and administrative actions. Globally, the competition is Russia and China. Nationally, to remain competitive, they must keep costs down.

**Senator Vick** asked how the units cool down. **Mr. Hopkins** replied that the units cool themselves based on the design. The core unit is 1/20th the size of a large reactor, it is in a vacuum, has no hydrogen, and requires no operational intervention. **Senator Vick** inquired as to how they can operate more competitively and offer lower rates than gas while requiring more employees and additional construction costs. **Mr. Hopkins** stated they do not plan to put all 12 modules in at the same time. By installing a few at a time they can generate revenue to offset cost. They also plan to cross-train employees. **Senator Vick** asked how they would generate competitively priced electricity while hiring more people and paying them substantially higher wages. **Mr. Hopkins** replied that cost cutting in other areas will be involved, along with the use of production tax credits.

**Vice Chairman Hagedorn** inquired about the height of the model reactor. **Mr. Hopkins** answered that it was 50 megawatts electric, 160 thermal; each one capable of powering 35,000 to 40,000 homes. The height in containment is 75 feet and 15 feet in diameter. They come in phases and can be shipped by barge, rail, or hydraulic truck. **Vice Chairman Hagedorn** asked if the technology was in use today. **Mr. Hopkins** replied that it was not. They have a test facility using a one-third scale model. Exhaustive testing has been done on the components. At the current time, they have no definitive agreement with any suppliers.

**Vice Chairman Hagedorn** queried as to the plan for building internationally once the Nuclear Regulatory Commission (NRC) approves the technology. **Mr. Hopkins** replied that other countries could utilize the data they have provided to the NRC, without having their own regulator, which would be a considerable cost savings.

**Chairman Siddoway** asked if there had been any efforts to hasten the process since the new administration began. **Mr. Hopkins** stated that they received enthusiastic support from the new administration.

**ADJOURNED:** There being no further business, **Chairman Siddoway** adjourned the meeting at 9:19 a.m.

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**Senator Siddoway Chair**

**Twyla Melton, Secretary**

**Diane James, Assistant Secretary**

**SENATE STATE AFFAIRS COMMITTEE**

**Wednesday, January 31, 2018—Minutes—Page 4**
Idaho National Laboratory

Presentation to Idaho Legislature

Mark Peters
Director, Idaho National Laboratory

January 30-31, 2018
Boise, Idaho
Idaho’s National Laboratory

Secretary Perry visit
May 2017

INL Contract
Extension to 2024

97% “A” rating 4 years in a row
INL is the 6th largest private employer in Idaho – providing high-tech, high paying jobs

- Average base salary of an INL employee in FY17 was $95,768 annually
- INL directly employed 4,256 workers in Idaho
- INL spent nearly $140 million with Idaho-based subcontractors
- BEA corporate office contributed more than $610,000 to charitable giving

Total Economic Impact
$1,935,401,813

INL Direct Spending
$1,000,735,504
Our Vision and Mission Positions INL to be Relevant to Tomorrow’s Energy Future

INL Vision
INL will change the world’s energy future and secure our critical infrastructure.

INL Mission
Discover, demonstrate and secure innovative nuclear energy solutions, clean energy options and critical infrastructure.
The Idaho National Laboratory Site

**Geography**
- 890 square miles
- 1350 miles of roads
- 21 miles of railroad lines
- 112 miles of electrical transmission and distribution lines

**Infrastructure / Mission**
- 4 reactors
- Nuclear and radiological facilities
- 2 spent fuel pools
- 400+ buildings
- 3 fire stations
- Mass transit system
- Explosive range
- Landfill
- Museum
- Significant security profile

4,256 Employees
FY17 Business Volume $1,001 M

...the Nation’s Nuclear Laboratory
We are Focused on Four Critical Initiatives to Meet Energy, Competitiveness, and National Security Goals

Enhance core capabilities, talent, S&T infrastructure, programs, and partnerships

- **Nuclear energy competitiveness and leadership**
- **Integrated nuclear fuel cycle solutions**
- **Advanced hybrid energy systems**
- **Cyber and physical security**
INL is Positioned to Address the World’s Most Challenging Problems

Nuclear S&T
- Advanced reactor design and optimization
- Nuclear fuels and materials
- Fuel cycle technologies
- Light water reactor fleet sustainability

Advanced Test Reactor
- Steady state neutron irradiation of materials and fuels
  - Naval Nuclear Propulsion Program
  - Industry
  - National laboratories and universities

Materials & Fuels Complex
- TREAT – Transient testing
- Analytical laboratories
- Post-irradiation examination
- Advanced characterization
- Fuel fabrication
- Space nuclear power and isotope technologies

Energy & Environment S&T
- Advanced transportation
- Environmental sustainability
- Clean energy
- Advanced manufacturing
- Biomass

National & Homeland Security S&T
- Critical infrastructure protection and resiliency
- Nuclear nonproliferation
- Physical defense systems
Small Modular Reactors (SMR)

• INL supports site characterization, RD&D, and regulatory support for the first SMR anywhere in the world.

• DOE granted a site use permit to Utah Associated Municipal Power Systems (UAMPS) Carbon Free Power Project (CFPP) in February 2016 that enables UAMPS to study, license and locate a NuScale-designed SMR at INL.

• The Joint Use Module Plant (JUMP) concept is being developed to commercially demonstrate Hybrid Energy Systems (HES) and Secure Reliable Microgrid (SRM) applications.
Center for Advanced Energy Studies (CAES)

CAES is a research and education consortium where collaboration inspires innovation that fuels energy transitions and economic growth.

Our value to Idaho

- **Idaho students receive:**
  - technical laboratory training
  - access to professional network
  - career opportunities after graduation

- **Idaho university faculty receive:**
  - experience that shapes instruction
  - unique research opportunities, collaboration
  - joint appointments with national laboratory

- **INL receives:**
  - access to skilled graduates
  - access to non-traditional funding
  - access to educational opportunities

State’s investment = **Millions in public/private funding**
State’s investment = **Encourages students to “Go-On”**
State’s investment = **Foster's economic development**
INL Business Volume

FY17
Funding Sources
$1,001M

- Nuclear Energy: 49%
- National Nuclear Security Administration: 15%
- Department of Defense: 4%
- Department of Homeland Security: 4%
- Specific Manufacturing Capability: 8%
- Other Department of Energy: 5%
- Energy, Efficiency and Renewable Energy: 4%
- Other Site Contractors: 5%
- Other Strategic Partnership Projects: 6%
- Other Site Contractors: 5%
- Other Strategic Partnership Projects: 6%
Excellence in Operations, Stakeholder Engagement, and Community Service are Fundamental to Our S&T Strategy

**Operations Excellence**
Transform INL’s infrastructure, capabilities, systems, and processes to enable modern science

- Strong safety culture
- Cost optimization
- Management systems transformation
- Revitalized infrastructure – New facility acquisitions
- Great place to work – Viable talent pipeline

**Community Excellence**
Establish INL as high value, nationally, and in the community, state, and region

- Outreach – outcomes and impacts
- Stronger academic partnerships
- Entrepreneurial culture – translating research to innovation
We are Using the Taxpayers Dollars Wisely

Indirect budgets reflect two primary drivers: market forces influencing fringe benefit costs, and the need to build intellectual and physical mission-related capability.
Planned Campus/Complex Modifications

**REC**
- CyberCore Integration Center
- Collaborative Computational Center (C3)
- Idaho Falls Greenbelt and University Campus Connectivity

**ATR**
- Maintenance Support Building
- Utility Corridor Modernization
- ATR Strategic Plan
- 30-Ton and 40-Ton Crane Replacements

**MFC**
- Research Collaboration Facility
- MFC Strategic Plan
- Utility Corridor Modernization
- Sample Preparation Laboratory
Cybercore Integration Center and Collaborative Computing Center Status

Cybercore Integration Center

Collaborative Computing Center
Idaho’s Regional Optical Network – IRON

A strategic asset for Idaho enabling collaboration in education, research, government, healthcare and economic development. Helping Idaho cross the digital divide.

Iron is the digital fabric that holds INL and Idaho’s higher education together focused on workforce development.

IRON is working with INL, Idaho universities, and colleges to develop an educational ecosystem across Idaho.

INL is a participant, facilitator and advocate for IRON’s educational ecosystem.
Initiatives to Increase Talent Attraction and Engagement

• Partnering with universities, community colleges, and technical colleges for talent and research collaboration
  – Investing INL resources to match STEM Action Center goals
    • Empowering teachers through professional development – Reached 1,600 teachers in 95% of Idaho’s school districts
    • Motivating students through STEM outreach – Benefited 56,000 students in FY 2017
    • Collaborating with families and communities to explore STEM careers and develop STEM Literacy
    • Providing STEM grants – Grants over $300,000 on annual basis
      – Targeting rural and underrepresented, underserved, first generation populations
      – Implementing inclusion and diversity program

Building a world-class scientific and engineering talent pool
Idaho’s National Laboratory – 2018 INL Technology-based Economic Development Grants

University of Idaho, Apple Swift coding
Coeur D’Alene

Clearwater Economic Development, igniting innovation and equipment
Lewiston

Trailhead, Women in entrepreneurship training program
Boise, Treasure Valley

College of Southern Idaho Foundation, military veterans to workforce
12 cities in Southern Idaho

Custer Economic Development, business growth videos and equipment
Mackay, Custer County

Boise State University, Butte County economic development community guide
Arco and Butte County, Boise

REDI Science Technology and Research cluster
14 counties, Eastern Idaho

Shoshone-Bannock Tribes, business plan and feasibility study
Shoshone-Bannock Tribe

Idaho Technology Council, Idaho State of Industry Report

Idaho Rural Partnership, turning ideas into action program
INL staff will be showcasing virtual tours
- Transient Test Reactor
- Hot Fuel Examination Facility
- Electric Vehicle Integration Laboratory and
- Battery Test Center

Learn more about INL’s Space and Security Power Systems work and our work in National and Homeland Security

January 31, 2018
8:00am – Noon
First Floor Rotunda
# AMENDED AGENDA #1

**SENATE STATE AFFAIRS COMMITTEE**

8:00 A.M.
Room WW55
Friday, February 02, 2018

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
<th>PRESENTER</th>
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</thead>
<tbody>
<tr>
<td>RS25892</td>
<td>STATING FINDINGS OF THE LEGISLATURE to encourage Idahoans to devote March 1, 2018 through March 2, 2020 as a period of preparation for the centennial of the passage of the 19th Amendment.</td>
<td>Senator Stennett</td>
</tr>
<tr>
<td>RS25908</td>
<td>A PROCLAMATION HONORING AND COMMENDING Bart M. Davis for his service to the Legislature.</td>
<td>Senator Winder</td>
</tr>
<tr>
<td>MINUTES APPROVAL:</td>
<td>The minutes of January 22, 2018</td>
<td>Senators Anthon and Buckner-Webb</td>
</tr>
<tr>
<td></td>
<td>The minutes of January 24, 2018</td>
<td>Senators Hagedorn and Stennett</td>
</tr>
</tbody>
</table>

*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**

- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge

**COMMITTEE SECRETARY**

- Twyla Melton
- Room: WW42
- Phone: 332-1326
- email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 02, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

RS 25892 STATING FINDINGS OF THE LEGISLATURE to encourage Idahoans to devote March 1, 2018 through March 2, 2020 as a period of preparation for the centennial of the passage of the 19th Amendment.

Senator Stennett, District 26, introduced RS 25892. This legislation, brought by the Idaho State Historical Society, will establish a timeframe to prepare for the 100th anniversary of the passage of the 19th Amendment to the United States Constitution. This Amendment granted women the right to vote.

MOTION: Senator Buckner-Webb moved to send RS 25892 to print. Senator Lodge seconded the motion. The motion carried by voice vote.

Senator Winder noted that Idaho, in 1896, was the fourth state in the nation to allow women to vote. He stated his hope that Idahoans would celebrate that achievement as we honor the passage of the 19th Amendment.

RS 25908 A PROCLAMATION HONORING AND COMMENDING Bart M. Davis for his service to the Legislature.

Senator Winder, District 20, explained that the proclamation is a minimal way to acknowledge the service of Senator Bart Davis to the Idaho Senate and Idaho State Legislature. It is an attempt to acknowledge his leadership and time of service.

MOTION: Senator Lodge moved to send RS 25908 to print and then to the 10th Order of Business. Senator Hill seconded the motion. The motion carried by voice vote.

MINUTES APPROVAL: Senator Anthon moved to approve the Minutes of January 22, 2018. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

Vice Chairman Hagedorn moved to approve the Minutes of January 24, 2018. Senator Stennett seconded the motion. The motion carried by voice vote.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 8:04 a.m.

___________________________
Senator Siddoway
Chair

___________________________
Twyla Melton
Secretary
AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 07, 2018

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
<th>PRESENTER</th>
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<tbody>
<tr>
<td>RS25987</td>
<td>RELATING TO PUBLIC RECORDS to provide that certain items used for expense reimbursement to a public official are not exempt from disclosure and that certain security identity documents are exempt from disclosure.</td>
<td>Senator Souza</td>
</tr>
<tr>
<td>S 1228</td>
<td>RELATING TO ELECTIONS to revise the minimum age for a student to be appointed to an election board.</td>
<td>Angie Barkell, Owyhee County Clerk</td>
</tr>
<tr>
<td>S 1229</td>
<td>RELATING TO ELECTIONS to provide for the submission and approval of an early voting plan.</td>
<td>Angie Barkell, Owyhee County Clerk</td>
</tr>
</tbody>
</table>

*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**
Chairman Siddoway  
Vice Chairman Hagedorn  
Sen Hill  
Sen Winder  
Sen Lodge

**COMMITTEE SECRETARY**
Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 07, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the meeting of the Senate State Affairs Committee (Committee) to order at 8:00 a.m.

RS 25987 RELATING TO PUBLIC RECORDS to provide that certain items used for expense reimbursement to a public official are not exempt from disclosure and that certain security identity documents are exempt from disclosure.

Senator Souza, District 4, presented RS 25987 and stated it updated Idaho public records law to balance openness with the need for privacy. This legislation would add language to the current law addressing three areas; 1.) designating a custodian within each agency to manage requests for public records; 2.) updating types of compensation information available for public information requests, and 3.) adding identity numbers as exempt from public disclosure. Senator Souza asked that RS 25987 be introduced for printing.

Senator Hill asked how she found a need for this legislation. Senator Souza replied the issue arose over a question regarding severance packages, as well as an agency designation request for management assistance.

MOTION: Senator Hill moved to send RS 25987 to print. Senator Hagedorn seconded the motion. The motion carried by voice vote.

S 1228 RELATING TO ELECTIONS to revise the minimum age for a student to be appointed to an election board.

Angie Barkell, Owyhee County Clerk, President of Idaho Association of County Recorders and Clerks presented S 1228 and stated the bill would lower the minimum wage of poll workers to 16. This would allow students to work more than one election in a year and possibly more than one in a calendar year. She asked that S 1228 be sent to the floor with a do pass recommendation.

Senator Stennett inquired as to how the training process would work. Ms. Barkell replied each county has their own protocol for training, but extensive training is provided.

Senator Vick asked whether schools have allowed students to leave school in order to participate. Ms. Barkell replied they have encountered some resistance in rural areas. Senator Vick questioned the history of ages of poll workers. Ms. Barkell stated she was not aware of the history.

Senator Buckner-Webb commented on the importance of getting youth involved in this process.

Senator Lodge asked if schools have provided input on the age of 16. Ms. Barkell
replied they have not received much input from schools, but input has been received from constituents who have requested the age be changed.

**Senator Lodge** commented on the possibility that the Legislature could help; she indicated it is a good opportunity for the youth.

**MOTION:** Vice Chairman Hagedorn moved to send S 1228 to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**S 1229** **RELATING TO ELECTIONS to provide for the submission and approval of an early voting plan.**

**Angie Barkell,** Owyhee County Clerk, President of Idaho Association of County Recorders and Clerks presented S 1229 and stated the bill would allow counties to submit an early voting plan once per year. This would simplify the process for both the counties and the Secretary of State's Office where currently, counties submit the same plan up to five times a year. She asked that S 1229 be sent to the floor with a do pass recommendation.

**Senator Stennett** asked, if each county had a different process in regards to early voting, would that cause any conflicts. **Ms. Barkell** replied they do not foresee any issues. Her county does not do early voting; regardless, the time limit does not seem to cause obstructions for any county.

**Chairman Siddoway** questioned whether one plan would be sufficient to cover the entire year. He inquired if the plans would need to be modified if there were more than one type of election in any given year. **Ms. Barkell** answered the election process is the same for all elections. Modifications would only need to be made if there were large facility changes or changes in polling locations.

**Vice Chairman Hagedorn** inquired about the number of voters in Owyhee County. **Ms. Barkell** replied they had over 5,000 in the most recent presidential election. They currently have a population of approximately 11,600.

**Senator Hill** inquired as to the writer of the bill; he wondered if he or she were present. He noted new language in lines 12-13, "or at least thirty (30) days prior to implementing an early voting plan." He asked why the "at least" was added; does it change the meaning of the bill in any way? **Ms. Barkell** replied she was not sure why it was added. However, she agreed with a minimum of 30 days prior to the election.

**MOTION:** Vice Chairman Hagedorn moved to send S 1229 to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**TESTIMONY:** **Phil McGrane,** Chief Deputy Clerk, Ada County Clerk's Office, presented his viewpoint as the largest user of early voting in the State of Idaho. He stated the intent of this legislation would be to eliminate the repetition of submitting unchanged plans. A new plan would be submitted if changes were based on the type of election or if there was a change in voting location.

The motion carried by **voice vote**.

**ADJOURNED:** There being no further business, **Chairman Siddoway** adjourned the meeting at 8:25 a.m.
### AMENDED AGENDA #1
### SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 09, 2018

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
<th>PRESENTER</th>
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<tbody>
<tr>
<td>SC 128</td>
<td>STATING FINDINGS OF THE LEGISLATURE and encouraging Idahoans to devote March 1, 2018, through March 2, 2020, to prepare for the centennial of the passage of the 19th Amendment.</td>
<td>Janet Gallimore, Idaho State Historical Society</td>
</tr>
<tr>
<td>H 361</td>
<td>RELATING TO FILING FEES FOR THE SECRETARY OF STATE to make adjustments to existing surcharges</td>
<td>Chad Houck, Deputy Secretary of State</td>
</tr>
<tr>
<td>H 379</td>
<td>RELATING TO THE IDAHO NONPROFIT CORPORATION ACT to modify signature requirements to make the statute consistent with filing requirements for corporations.</td>
<td>Chad Houck, Deputy Secretary of State</td>
</tr>
<tr>
<td>RS 5769</td>
<td>RELATING TO CONCEALED WEAPONS to revise a provision regarding who may carry a concealed weapon.</td>
<td>Senator Potts</td>
</tr>
</tbody>
</table>

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

**COMMITTEE MEMBERS**
- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge

**COMMITTEE SECRETARY**
- Twyla Melton
- Room: WW42
- Phone: 332-1326
- email: sstaf@senate.idaho.gov
DATE: Friday, February 09, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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.

CONVENE: Chairman Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

SCR 128 RELATING TO THE FINDINGS OF THE LEGISLATURE and encouraging Idahoans to devote March 1, 2018 through March 2, 2020 to prepare for commemoration of the centennial of the passage of the 19th Amendment.

Chairman Siddoway welcomed Janet Gallimore to present SCR 128.

Janet Gallimore, Executive Director, Idaho State Historical Society (ISHS), informed the Committee that the ISHS and the Idaho Women Leadership Group, through SCR 128, invite Idahoans to prepare for the centennial of the passage of the 19th Amendment by:

- planning Statewide and local activities honoring and recognizing women leaders of the past and present;
- fostering women leaders of the future, and furthering their roles in politics and business; and
- encouraging women to continue to exercise their right to vote.

Ms. Gallimore pointed out that Idaho was the fourth state to allow women to vote through SJR 2 on November 3, 1886, with nearly two-to-one voting in favor. She revealed that the Western states of Wyoming, Utah, Colorado, Idaho, and Washington led the country in granting women's suffrage. She detailed the efforts to achieve women's suffrage nationally. Ms. Gallimore stated that these efforts fall into three time periods:

- 1848-1869 focused on social, civil, and religious conditions and rights of women; and women's influence on the Civil War era constitutional amendments regarding civil rights and slavery;
- 1869-1910 focused on suffrage as an element of state or federal law; and
- 1910-1920 focused on furthering women's roles in society, education, and civic and community activities.

Ms. Gallimore asserted that these efforts culminated in the ratification of the 19th Amendment to the United States Constitution on August 18, 1920.

Ms. Gallimore presented an overview of the commemoration. She stated it will engage all Idaho communities, encourage understanding of the iconic leaders, and create opportunities for the empowerment of women. She indicated the commemoration would include broad partnerships, a toolkit for communities,
preservation of historic sites and collections, and actions to increase women representation in elected office. Beginning with Sacagawea, Ms. Gallimore delineated Idaho women who were leaders, and their impact on the history of the State (see Attachment 1). She emphasized that history inspires leaders and provides inspiration and role models.

Ms. Gallimore declared that Idaho has the opportunity to ensure entire new generations of Idaho women understand their boundless potential.

Gloria Totoricagüena, Phd, President, Idaho Policy and Consulting, spoke in support of SCR 128. Dr. Totoricagüena stated she conducted focus groups and survey research on how Idahoans want to be represented in the activities of the ISHS. She presented the results of surveys which reveal repeated and specific requests for immediate, improved, and accurate representation of Idaho women in the following areas:

- women artists and athletes;
- women scientists, agronomists, ranchers, and farmers;
- women in Idaho’s forest industries;
- women in Idaho’s educational ecosystem;
- women in medicine and medical care;
- women as elected officials, in the judiciary, and as government affairs experts; and
- wives, mothers, daughters, and sisters to male politicians.

Dr. Totoricagüena explained that her research also resulted in additional information and promotion regarding Idaho’s women, and how gender intelligence has influenced Idaho’s trajectory. While focusing on the future of Idaho’s work force, she learned futurist planners want female participation in decision making at all levels of communities, businesses, agencies, churches, and non-profits. Ms. Totoricagüena asserted SCR 128 addresses these issues in a positive manner.

**MOTION:** Senator Stennett moved to send SCR 128 to the floor with a do pass recommendation. Senator Hill seconded the motion. The motion carried by voice vote.

**H 361** RELATING TO FILING FEES FOR THE SECRETARY OF STATE to make adjustments to existing surcharges.

Chairman Siddoway welcomed Chad Houck to the Committee.

Chad Houck, Deputy Secretary of State, stated H 361 pertains to the $30 filing fee for a Statement of Termination for partnerships. He noted at times the fee is overlooked; this oversight results in the Secretary of State (SOS) instituting an administration termination. Mr. Houck related that this course of action requires three separate notifications by mail at the taxpayer’s expense. H 361 would remove that fee and allow the parties to send notification with no fee attached.

**MOTION:** Senator Hill moved to send H 361 to the floor with a do pass recommendation. Senator Lodge seconded the motion. The motion carried by voice vote.

**H 379** RELATING TO THE IDAHO NON-PROFIT CORPORATION ACT to modify signature requirements to make the statute consistent with filing requirements for corporations.

Chad Houck, Deputy Secretary of State, related that current filing by non profit corporations require the signatures of all incorporators. H 379 will reduce that
requirement to a single incorporator. He explained this would make the statutes consistent with the flows within the online filing system. Mr. Houck added that the bill eliminates current conflicts within statute. He noted that, because the bill works within the new electronic system, there will be no fiscal impact.

MOTION: Senator Hagedorn moved to send H 379 to the floor with a do pass recommendation. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

RS 25769 RELATING TO CONCEALED WEAPONS to revise a provision regarding who may carry a concealed weapon.

Senator Tony Potts, District 33, representing himself, advised that RS 25769 removes one restriction on the concealed carry of weapons statute. The RS addresses permitless carry of concealed weapons and will extend the privilege to non-residents who meet all other criteria to carry concealed weapons in Idaho including age, criminal background check, etc. Senator Potts explained this bill protects the Second Amendment rights for citizens in Idaho, whether residents or non-residents. Senator Potts shared a graphic depicting Idaho gun laws as the exist today and as proposed to be simplified through RS 25769 (see Attachment 2).

Senator Potts explained the changes would be on page 2, line 21, by adding "a resident of a state other than Idaho;" the RS includes other changes which are grammatical. He stated the intention of the bill is to align more closely to the Second Amendment for constitutional carry.

Senator Hagedorn pointed out that all of the states have their own laws restricting some people from carrying a handgun. He requested Senator Potts to determine if Idaho law enforcement has the ability to learn if an Idaho non-resident had gun-related issues in the past.

Senator Lodge asked Senator Potts to work with the Metro Gang Unit to find out about gangs coming into Idaho that are using handguns in the commission of crimes. She requested Senator Potts work with the domestic violence groups to ascertain the impact on handguns in those situations.

MOTION: Senator Lodge moved to send RS 25769 to print with the caveat that Senator Potts conduct research for answers to the questions asked by Committee members. Senator Vick seconded the motion. The motion passed by voice vote with Senator Stennett and Senator Buckner-Webb recorded as voting nay.

ADJOURNMENT: There being no further business at this time, Chairman Siddoway adjourned the meeting at 9:27 a.m.
Women in Idaho History

1805 Idaho native Sacajawea returns home to the Salmon area with Lewis and Clark. Later that year a Nez Perce woman, Watkuweis, is credited by many with saving the expedition.

1872 Polly Bemis moves to the Salmon River. The Northwest’s most famous Chinese woman is the subject of four books and the movie, “Thousand Pieces of Gold.”

1878 Elvina Moulton becomes the only African American charter member of the Boise Presbyterian Church.

1883 May Arkwright moves to the Silver Valley and marries Levi Hutton in 1887. They purchase a stake in the Hercules Mine, and strike it rich. The Huttons engage in many social causes, and May, often teaming with Abigail Scott Duniway, becomes one of the leading suffragettes in Idaho and the Northwest.

1884 Mary Hallock Foote moves to Boise. An accomplished novelist and artist, her life and writings serve as the basis for the Pulitzer Prize winning book by Wallace Stegner, Angle of Repose.

1891 Emma Edwards of Boise designs the state seal, the first, and only state seal designed by a woman.

1896 The Idaho legislature grants women the right to vote in state and local elections, the fourth state to grant suffrage.

1898 Permeal French elected as first woman Superintendent of Public Instruction. Clara L. Campbell, Boise, Harriett F. Noble, Idaho City, and Mary A. Wright, Rathdrum, elected to the Idaho House of Representative and became the first women to serve in the Idaho legislature.

1899 Jenny Hughes receives a Bachelor Science degree, becoming the first African American graduate of the University of Idaho.

1902 Mable Gray becomes Idaho’s first official fire lookout attendant at the Bertha Hill look out northeast of Orofino; her lookout consists of a perch on a tall snag.

1921 Nell Shipman films and produces “The Girl from God’s Country” from her studio on Priest Lake, the first movie made in Idaho.

1928 Margaret Cobb Ailshie becomes publisher of the Idaho Statesman (serving until 1959).

1931 Sister Alfreda Elsensohn founds the Historical Museum at St. Gertrude Monastery, one of Idaho’s oldest museums. The state’s highest award for outstanding museum service is named for her.

1932 Myrtle Ening of Gooding is elected State Treasurer, the first in a line of 5 women to hold that post consecutively until 1959; indeed, the string continued until 1999, interrupted by only one man.

1936 Moscow native Carol Ryrie Brink wins the nation’s most prestigious literary award for children’s literature, the Newbery Award, for Caddie Woodlawn.
1948 Gretchen Fraser of Sun Valley wins gold and silver Olympic medals in skiing. She becomes the first of several Idaho women Olympic champions, including Andrea Lloyd, Picabo Street, Stacy Dragilla, and Kristin Armstrong.

1952 Gracie Bowers Pfoest is elected as the first Idaho woman to serve in the U.S. House of Representatives; she serves five terms.

1964 Dorthy Johnson of Pocatello becomes the first African American to gain the title "Miss Idaho, USA." Later that summer, the same year Congress passed the Civil Rights Act, she becomes the first African American to become a semi-finalist for the Miss USA Pageant.

1974 Amy Trice leads the Kootenai Tribe in declaring war on the U.S. No shots are fired, but the Tribe gains a reservation, clinic, and housing.


1988 Maxine Bell, a retired school librarian from Jerome, was first elected to the Idaho House. Bell has served 30 years and her last term (15th) in 2018. She served as the co-chair (with Senator Shawn Keough) of the Joint Finance Appropriations Committee. Bell also served as the Woman’s Chair of the Idaho Farm Bureau from 1980-1992.

1989 Kathryn Albertson Park is dedicated, the third in a chain of parks, including Julia Davis and Ann Morrison, named for Boise women.

1992 Linda Copple Trout becomes the first woman appointed to the Idaho Supreme Court.

1996 Shawn Keough was first elected to the Idaho Legislature. Keough who co-chaired the Joint Finance Appropriations Committee, is the longest-serving female senator in the history of the state. She has served 22 years and completed her 11th term in 2018.

2006 Susan B. "Sue" Chew is elected to the Idaho House of Representatives becoming Idaho’s first Asian legislator.

2007 Barbara Morgan flies on the Space Shuttle to the International Space Station. A former teacher at McCall-Donnelly Elementary, she attended the Teacher in Space program, and later became a full-time astronaut.

2008 Sarah Palin, born in Sandpoint and a North Idaho College and University of Idaho graduate, runs on the Republican ticket for Vice President.

2010 Cherie Buckner-Webb of Boise wins election to the Idaho House of Representatives, becoming Idaho’s first African American legislator.

2014 Kaitlyn Farrington of Hailey wins gold in the women’s half-pipe competition at the Sochi Olympics. The first women rider to perform a backside 900 (rider spins 900 degrees backside in the air).

2018 Paulette Jordan is the second Native American woman to serve in the legislature. Jordan has served two terms as an Idaho state representative.
Idaho gun laws as they exist today:

21-year-old Idaho Resident
- Handguns, carried concealed in the city with no permit required.

18-year-old Idaho Resident
- Handguns, carried concealed in the city with a special permit from the state of Idaho.
- Rifles or shotguns, carried openly or concealed in rural areas of the city.
- Handguns, carried openly or concealed in rural areas.
- Handguns, carried openly in the city.
- No permit required.

21-year-old non-resident in Idaho
- Handguns, carried concealed in the city with a permit from Idaho or another state.

Idaho gun laws, simplified and improved:

21-year-olds
- Handguns, carried concealed in the city with no permit required.

18-year-old Idaho Residents
- Handguns, carried concealed in the city with a special permit from the state of Idaho.
- Rifles or shotguns, carried openly or concealed in rural areas or the city.
- Handguns, carried openly or concealed in rural areas.
- Handguns, carried openly in the city.
- No permit required.
### AGENDA

**SENATE STATE AFFAIRS COMMITTEE**  
8:00 A.M.  
Room WW55  
Monday, February 12, 2018

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<tr>
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<td>GUBERNATORIAL</td>
<td>The reappointment of Shane Gehring to the Bingo-Raffle Advisory Board.</td>
<td>Shane Gehring</td>
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<tr>
<td><strong>RS25954</strong></td>
<td>RELATING TO THE OFFICE OF THE INSPECTOR GENERAL to add a new chapter to Idaho code to establish the Office of the Inspector General.</td>
<td>Senator Stennett</td>
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<tr>
<td><strong>RS26146</strong></td>
<td>RELATING TO INSURANCE to add a new section &quot;Living Donor Protection Act&quot; to protect living organ donors.</td>
<td>Senator Buckner-Webb</td>
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<tr>
<td><strong>S 1243</strong></td>
<td>RELATING TO ABORTION to require the dissemination of certain information.</td>
<td>Senator Den Hartog</td>
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*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**  
Chairman Siddoway  
Vice Chairman Hagedorn  
Sen Hill  
Sen Winder  
Sen Lodge  

**COMMITTEE SECRETARY**  
Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 12, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENT: The reappointment of Shane Gehring to the Bingo-Raffle Advisory Board.

Shane Gehring, a current member of the Bingo-Raffle Advisory Board (Board), explained he resides in Nampa, Idaho, where he manages a bingo operation made possible by the partnership of the Knights of Columbus (KOC) Council 2014 and Giving Hand Charity (GHC).

Senator Hagedorn asked Mr. Gehring to identify one thing that could be improved by the Board. Mr. Gehring replied a change in the percentages sent to charity and the amount permitted for operations. Last year, KOC and GHC donated about $300,000 to charity. In 1996, the amount donated was about $900,000. Mr. Gehring attributed the decrease to fewer people participating. Mr. Gehring expressed his opinion that changing the percentage from 18 percent to 20-22 percent for operations would allow for advertising to attract more people.

Chairman Siddoway expressed the Committee's appreciation to Mr. Gehring for his service on the Board. He explained the Committee will vote on the reappointment at the next meeting.


RS 26146 RELATING TO INSURANCE to add a new section to Idaho Code entitled "Living Donor Protection Act" to protect living organ donors.

UNANIMOUS CONSENT: Senator Hill asked for unanimous consent to send RS 25954 and RS 26146 to print. There were no objections.

S 1243 RELATING TO ABORTION to require the dissemination of certain information.

Senator Den Hartog, District 22, advised that S 1243 adds a paragraph (f) to Idaho Code § 18-609(2), Idaho's informed consent statute for women considering abortion (see Attachment 1). She explained Idaho Code requires informed consent materials, provided by the Idaho Department of Health and Welfare (IDHW), be given by the physician to a woman considering abortion.
24 hours prior to an abortion. **Senator Den Hartog** related that the proposed subsection directs IDHW to include in the informed consent materials, where to find information or a health care provider who can answer questions related to the potential to reverse a chemical abortion before taking the second dose. She provided support material regarding: the number of abortions and the percentage of which are chemical abortions; the types of drugs used in reversing chemical abortion, including progesterone, and how they are administered; research associated with the effectiveness of the drug; and a hotline established to help women wanting to reverse a chemical abortion (see Attachment 1).

**Senator Den Hartog** identified the following points:

- The U.S. Food and Drug Administration (FDA) concluded there is no risk of birth defects from progesterone;
- The American Association of Pro-Life Obstetricians & Gynecologists supports use of the abortion pill reversal (APR) protocol;
- The Idaho Medical Association is neutral on the proposed legislation;
- Right to Life Idaho, the Family Policy Council, and Idaho Chooses Life all support the proposed legislation (see Attachment 1).

**Senator Den Hartog** indicated the legislation also clarifies language related to a fetal heartbeat. It replaces "hear the heart tone" with "observing the heartbeat," thus permitting either seeing or hearing the heartbeat. **Senator Den Hartog** said, in summary, this legislation requires that a woman be informed the effects of the chemical abortion pill can potentially be reversed (Attachment 1).

**Senator Stennett** stated she wanted to be sure women were given complete information regarding their choices. She asked if all options would be available from every woman's health care provider. **Senator Den Hartog** replied such information would be in the informed consent materials required to be given to any woman considering abortion. She said she did not know if every woman's health care provider has the informed consent materials on hand, but all of the information is on the IDHW website.

**Senator Stennett** expressed concern that providers are obligated to provide only that which has been proven and approved. She pointed out that, because this reversal has not been approved by the FDA, some large medical organizations are opposing this law. She expressed concern in promoting a procedure that has not been vetted. **Senator Den Hartog** replied that Dr. Harrison could provide more information on the status of the research. **Senator Stennett** asked how many doctors are conducting this research. **Senator Den Hartog** reported two primary doctors who pioneered the APR protocol, and over 300 physicians across the country are willing to provide the treatment – are registered with the hotline – and, are involved in the research. She reiterated that Idaho currently has five registered providers across all regions who are willing to provide the protocol. **Senator Stennett** inquired if this legislation has been passed in the states of the two doctors working on the research. **Senator Den Hartog** replied it has not.

**PASSED THE GAVEL:**

Chairman Siddoway passed the gavel to Vice Chairman Hagedorn.

**TESTIMONY:**

**Rebekah Buell** testified in support of S 1243. Ms. Buell shared her experience with the APR protocol (see Attachment 2).

**Rev. Marci Auld Glass**, Pastor, Southminster Presbyterian Church, testified in opposition to S 1243. She stated she works with women in crisis. She stated...
her opinion there is sufficient informed consent information to assist a woman considering an abortion. Ms. Glass stated concern about sending women on a course that has only a 50 percent success rate, is not FDA approved, and is not medically proven.

Senator Stennett noted the bill requires information be provided about the right to observe the heartbeat of the unborn child and to provide further information about chemical abortions. She asked if requiring this, rather than having it as a list of options, would have more effect on alleviating their crisis or helping them make choices. Ms. Glass replied having medically-proven options available is helpful, but requiring a women to go through a procedure is not helpful.

Kerry Uhlenkott, Right to Life of Idaho, testified in support of S 1243. Ms. Uhlenkott emphasized it would still be the mother's choice to initiate the APR protocol or the abortion after receiving the information. This legislation requires only that she be given information about APR. She summarized information regarding the Idaho doctors chosen to provide the protocol, provided written information concerning laws on APR, and shared the views of various medical groups and doctors (see Attachment 3).

Senator Buckner-Webb asked how to know when it is too late to initiate an abortion. Ms. Uhlenkott replied it is left to the medical professionals who answer the hotline, they will conduct an ultrasound to determine if the baby is viable.

Julie Custer, Co-President of the American Association of University Women of Idaho (AAUW) testified in opposition to S 1243. Ms. Custer expressed the concerns of AAUW including: certain rights of women, the status of laws in other states regarding APR, and the promotion of preventative health and education to reduce unintended pregnancies (see Attachment 3).

Senator Vick asked if Ms. Custer was aware that Arizona negotiated a consent agreement and that law is operative. Ms. Custer replied she was not aware. Senator Vick pointed out that Arizona came to a negotiated agreement where a section of the law was struck down, but the portion regarding providing information is still law.

Terry Lennox, RN, Psy.D, Rachel's Vinyard Ministry, testified in support of S 1243. Ms. Lennox testified regarding the ethics of the nursing profession, the need to update informed consent information as medical advances are made, the mental state of women facing the decision regarding abortion, and the mental state of women for whom the APR was unsuccessful (see Attachment 5).

Senator Stennett inquired if Ms. Lennox regularly prescribed procedures which were not FDA approved. Ms. Lennox replied that nurses do not routinely do so. She added when a woman is referred for an APR protocol, she would receive informed consent information. Ms. Lennox observed, in dire situations, doctors routinely inform patients of the status of the protocol that may not be FDA approved. Senator Stennett asked if this is normal in a hospital setting. Ms. Lennox responded that this legislation refers to the clinic setting where the woman is receiving informed consent documents designed for APR.

Senator Buckner-Webb questioned if this legislation allows informed consent information for APR only with regard to a woman's options. Ms. Lennox stated the legislation allows APR as an additional consent to reflect advances in medical care. She indicated this informed consent information gives a woman another option if she has a change of heart. Senator Buckner-Webb asked if the woman is advised of possible risks involved with APR. Ms. Lennox replied that when discharged, the woman is given the appropriate telephone numbers for medical professionals she can contact with concerns.
Senator Winder asked for clarification of Ms. Lennox's referral to coercion. Ms. Lennox explained that, in counseling women, she heard stories of coercion to seek an abortion from family members or others in a variety of circumstances.

Senator Hill inquired if Senator Buckner-Webb was discussing all options available after a woman has taken the first pill. Senator Buckner-Webb answered that the woman would need to know all of the ramifications of taking the second pill, and of using the APR protocol. She emphasized she did not want a woman to be coerced one way or the other.

Samantha Katana testified in opposition of S 1243. Ms. Katana stated, although she trusts doctors, she is concerned about S 1243 requiring physicians to provide false information. She voiced her concern that the bill inhibits Idaho patients from receiving medically accurate and consistent information.

Senator Winder inquired how Ms. Katana knows when information is false. Ms. Katana responded that Mistie Tolman, of Planned Parenthood (PP) would better answer that question. She also alluded to Senator Stennett's comment on the lack of clinical trials. Ms. Katana indicated there were doctors present who could explain this concern. Senator Winder asked, if the facts indicated the information was not false, would Ms. Katana have a different opinion. Ms. Katana answered if a potential procedure undergoes accurate clinical studies, she would consider those results.

Angie Dwyer, Stanton Boise Mobile Clinic, explained her background in clinics, and testified in support of S 1243. She shared written testimony from Dori Sanstrom, Executive Director, Stanton Healthcare Magic Valley, Pregnancy Resource Center in Twin Falls (see Attachment 6). Ms. Dwyer related information regarding the following: the lack of pertinent medical information about abortion options for a woman from her medical provider; the need for an informed option such as APR for women changing their mind; and the number of successful reversals to debunk the characterization of APR as "junk-science".

Ms. Dwyer, quoting Ms. Sanstrom, commented that Idaho women have the right to terminate a pregnancy; should also have the right to choose to save a baby; and should have the right to be fully informed concerning their health (see Attachment 6).

Senator Stennett asked Ms. Dwyer how many procedures have been recommended at Stanton Healthcare that are not approved by the FDA. Ms. Dwyer replied, None.

Senator Buckner-Webb asked if there are longitudinal studies showing the number of healthy children born after the APR protocol. She wondered if they remain healthy. Ms. Dwyer deferred to Dr. Harrison.

Senator Hill stated he has many medical questions. He asked if there was a medical doctor in the audience who performs abortions. There were none.

Alex Davis testified in opposition to S 1243. She said women in this situation can get the information they need; there was no need for further government involvement.

Christian Welp testified on behalf of Bishop Peter F. Christensen and the Roman Catholic Diocese of Boise in support of S 1243. He addressed the issue of choice, commenting that if a woman changes her mind during a two-part chemical abortion, she should have the choice to keep the baby. He believed this to be especially true since the APR protocol uses progesterone; a hormone used to prevent miscarriages. He stated it is also produced naturally in a woman's body.
Senator Stennett said she is aware of side effects associated with progesterone therapies. She asked if Mr. Welp has seen documentation proving there are no side effects to this protocol. Mr. Welp deferred to Dr. Harrison.

Sonia Gonnella testified in opposition to S 1243. Ms. Gonnella stated her belief that abortion is focused on women’s rights, and not the rights of the pre-born child; laws dealing with abortion encourage murder with impunity. She discussed abortion as it relates to religion. She felt the State should revoke existing abortion laws and cease to be involved in such laws.

Julie Lynde, Policy Director, Family Policy Alliance of Idaho, testified in support of S 1243. Ms. Lynde discussed the mental state of pregnant women, the APR protocol, and having access to all relevant information regarding decisions about health (see Attachment 7).

Senator Buckner-Webb stated if there was verifiable proof that this procedure is safe, she would probably have a different opinion. Ms. Lynde recognized that no one wants to support something that would be harmful to women. She stated Dr. Tom Coburn, former U.S. Senator from Oklahoma, agreed. He looked into the current status of the protocol and supports the procedure.

Kacee O’Connor, Southwest Idaho Chapter of the National Organization of Women (NOW), testified in opposition to S 1243. Ms. O’Connor asserted that the bill:

- is based on one study, the Delgado Study, which is unreliable, unsubstantiated, and invalid;
- allows the State to intrude into the sacred relationship between physician and patient; and
- has the potential to have a substantial cost to Idaho taxpayers.

She discussed the Delgado study, the view of medical groups, the state of mind of women who receive abortions, and the ethical dilemma for physicians (see Attachment 8).

Mistie Tolman, Legislative Director PP Votes, Northwest and Hawaii, testified in opposition to S 1243. She discussed the sharing of inadequate and misleading information; access to safe, evidence-based medical care; and the need to improve access to health care which would reduce the need for abortions (see Attachment 9).

Senator Hill commented people on both sides of this issue are mistrusting of those on the opposite side. He stated physicians are well-respected and trusted because they usually do tell patients the truth. Senator Hill observed that both sides want doctors to provide accurate and comprehensive information. He used the example of his son who had been diagnosed with cancer, explaining that the doctor described procedures that were in clinical trials and had not been approved, as well as procedures that had been approved. Senator Hill related that the doctor explained the risks and the concerns of these procedures; he was glad those all had been explained.

Senator Hill expressed his belief that many doctors who perform abortions tell patients about the abortion pill, the risks, the lack of FDA approval, and other known information about the procedure because they want their patients to make informed decisions. Senator Hill asked Ms. Tolman why PP is opposed to a mandate that doctors discuss this option and explain the risks involved. He pointed out that S 1243 does not require a doctor to recommend the protocol, only to discuss it. Senator Hill asserted the more information a person has, the better chance that person has to make a good decision.
Ms. Tolman stated PP does not have physicians who perform abortions available to testify because the physicians do not feel safe to testify in public. Ms. Tolman commented that physicians associated with PP regularly review the most recent medical advances. She declared that if the data exists and has been peer-reviewed, and published in a scientific medical journal, those physicians would provide their patients with that information.

Senator Buckner-Webb asked if there have been adverse outcomes that have been noted with APR. Ms. Tolman responded that because there is no credible peer-reviewed research, it is unknown what the side effects may be.

Senator Vick asked Ms. Tolman if she was aware that a doctor does not have to discuss APR with the patient. Ms. Tolman responded she understood S 1243 would only mandate the physician direct the patient to a website providing more information, but she felt the patient would assume the website is being endorsed by the doctor. Senator Vick inquired if Ms. Tolman thought the doctors would discuss the risks of APR. Ms. Tolman replied at that point it would be out of the doctor’s hands. Senator Vick asked if she considered the 400 children alive because of the procedure as evidence of efficacy. Ms. Tolman stated she did not think it is evidence that it works, but the same thing may have happened if the woman did not take the second dose.

Senator Stennett inquired if Ms. Tolman knew how rigorous the clinical trials were that have been conducted, but not yet released. Ms. Tolman said she was not aware. She stated they have not been able to find any data that could be considered scientifically or medically sound. Senator Stennett asked if the hotline is staffed by doctors 24/7. Ms. Tolman answered she was not aware.

Dr. Matthew Harrison testified in support of S 1243. Dr. Harrison stated that he, like most physicians, does not want to be told how to practice medicine by the government. He expressed an understanding of the Legislature’s role to ensure the protection and safety of Idaho’s citizens. He reaffirmed that APR creates a network of providers to help women who have changed their minds and want to save their unborn child. Dr. Harrison provided his credentials and experience in medical practice and research (see Attachment 10, page 1).

Dr. Harrison described the functions of mifepristone and progesterone; he explained how these substances work in abortion and abortion reversal. He related how he first used progesterone and the successful results. Dr. Harrison referred to a 2012 case study report from the Annals of Pharmacology and Pharmaceutics that detailed six case reports of women who had attempted to rescue their embryos after a medical abortion attempt. He reported that four of the attempts were successful and two were carried to a completed abortion. Since the 2012 study, he was aware of 350 healthy babies born using the protocol. Over 100 mothers are currently continuing their pregnancies. He related the overall success rate is 55-70 percent. Dr. Harrison referred to a second case study which was published in Europe in December 2017, that concluded progesterone should be studied.

Dr. Harrison discussed how research is performed and how new drugs or protocols transpire. He indicated, in this instance, the data must be collected retrospectively; it would be unethical to conduct a study using a control group, as is normal procedure. He described how he and his colleagues use known science, and how they apply it in a new way.
Dr. Harrison specified the chances of birth defects in cases of a failed abortion when both abortion pills were used, when only one abortion pill was used, and when progesterone was used after the first abortion pill. The results from these comparisons indicated an increased risk of birth defects with the use of the second abortion pill, but not when stopped after the first pill or with progesterone (see Attachment 10, pages 2-3).

Dr. Harrison asserted that APR is based on good science and is safe. He emphasized that S 1243 provides women with full informed consent information regarding reversal of the abortion if they change their minds.

Senator Stennett reviewed the material regarding an embryo surviving the combination of mifepristone and misoprostol and resulting birth defects (see Attachment 10, page 3); she requested further information. Dr. Harrison explained the two abortion pills are: first, mifepristone to abort the pregnancy; and second, misoprostol to induce labor to expel the fetus. He pointed out that the second pill is the one that would cause Moebius syndrome. Progesterone is used in the APR protocol before the second pill is taken. Dr. Harrison reiterated there have been no side effects.

Senator Hill asked for clarification regarding the possibility of birth defects if the woman takes only the mifepristone before the anti-abortion pill takes effect. Dr. Harrison replied the studies show there have been no side effects if only the first pill is taken.

Senator Winder requested information regarding fertility treatment and the use of this drug. Dr. Harrison explained fertility treatments were being conducted in his office using progesterone for women having low progesterone levels, and normalized their levels. He noted that fertility treatments using progesterone have been conducted since the 1950's and 1960's, and those treatments have been shown to be safe and effective. Senator Winder inquired if other countries use the APR procedure, and if so, is there documentation that can be considered in developing a proper protocol. Dr. Harrison responded he was unable to list all 14 at this time, but he could get the information to the Committee. He stated they include France, Australia, Germany, and South Africa. He noted Australia uses the same protocol and has recently published a paper covering several new case studies.

Senator Winder asked if Dr. Harrison has seen any birth defects in the successful APR procedures. He wondered if the procedure requires FDA approval since these are all drugs that have been previously approved. Dr. Harrison reported his group has a study that has been accepted for publication and is in the peer-review process. The study shows there is less than a three percent birth defect rate, which is the same as the national average. The birth defects are usually moles or port wine stains which would not be attributed to progesterone. Dr. Harrison observed that mifepristone was approved in the United States in 2000 at 600 mg for 7 weeks. Noting side effects, and without FDA approval, doctors changed the protocol to 200 mg for up to 10 weeks. He stressed that non-FDA approved protocols have been used for abortions. In 2016, the FDA approved 200 mg through 70 days gestation. Senator Winder inquired if this protocol would eventually require FDA approval. Dr. Harrison remarked it doesn't necessarily require FDA approval, but many doctors would not feel comfortable using it until it was FDA approved.

Vice Chairman Hagedorn asked why those doctors would not feel comfortable. Dr. Harrison said some doctors are reluctant if they are unfamiliar with the research.
Senator Stennett asked Dr. Harrison where he practices. Dr. Harrison named the six facilities where he has privileges. Senator Stennett inquired if the facilities allow other experimental procedures. Dr. Harrison commented he works in an intensive care unit, and they constantly use off-label procedures and protocols. He emphasized, in attempts to save lives when family members and patients understand the risks, doctors do things that are not FDA approved.

Dr. Harrison pointed out that using unapproved medications is different; progesterone is FDA approved as a medication. Senator Stennett inquired if Dr. Harrison has written results of his studies available to the public. Dr. Harrison specified that it is not ready for the public until it is peer-reviewed by the journal that has accepted it.

Senator Vick asked what negative side effects patients might encounter, and if Dr. Harrison encourages doctors he trains to explain negative side effects to their patients. Dr. Harrison related common side effects include: pain when having an injection, a knot at the injection site, and redness and irritation. Additional risks discussed with the patients are clots, stroke, and other conditions that may occur whenever someone is using progesterone treatments. He explained nursing staff are trained to give the injections. Family members are also trained in cases where the patient wants to do the injections at home.

Senator Stennett referred to doing home injections and asked how many injections are required for the reversal. Dr. Harrison related the first three injections are done in the doctor's office after examining the mother to confirm the viability of the pregnancy and to ensure there is not an ectopic pregnancy. The procedure is daily injections for three days, then an injection every other day for five days, and then twice a week until the end of the first trimester. There are 10-12 injections. Other physicians have recently addressed the fear of injection by giving an oral medication, Prometrium, through the first trimester. This procedure has proven to be as successful as injections, has less side effects, and is easier for women to take at home.

Vice Chairman Hagedorn inquired what the medication is normally used for, and if it is FDA approved. Dr. Harrison responded it is FDA approved, and is usually used for menstrual cycle regulation or to control menopausal symptoms.

Kathy Greismyer, Policy Director, American Civil Liberties Union (ACLU) of Idaho, testified in opposition to SB 1243. Ms. Greismyer pointed out that she has sent her written testimony (see Attachment 11). She reiterated that the study has not been peer-reviewed or published; is not conclusive regarding the results being exclusive based on the injection; and the procedure has been rejected by Louisiana Office of Public Health (see Attachment 11, pages 1-2).

Senator Anthon asked for clarification regarding similar legislation in New Mexico and Louisiana. Ms. Greismyer stated she did not know about such legislation in New Mexico. She explained Louisiana was considering similar legislation; instead, they passed a concurrent resolution to study the effects of abortion reversal. The study concluded there was not scientific evidence that APR was scientifically appropriate or medically accurate, so the Louisiana legislature chose not to introduce the legislation.

Senator Vick asked if the ACLU took a position on Idaho legislation from a few years ago considering the use of cannabidiol (CBD) oil for children with epilepsy. Ms. Greismyer declared that ACLU did not take a public position, but they are supportive of access to medication deemed appropriate. Senator Vick inquired as to the difference when using progesterone for abortion reversal. Ms. Greismyer noted there are numerous studies indicating the efficacy of medicinal marijuana, including CBD oil which helps alleviate pain connected to a number of

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medical conditions. The difference is APR has not had published research.

David Ripley, Executive Director, Idaho Chooses Life, testified in support of S 1243. Mr. Ripley recognized the excellent testimony with respect to the medical research that has gone into this legislation. Mr. Ripley emphasized the urgency of this legislation.

Vice Chairman Hagedorn passed the gavel to Chairman Siddoway.

Elyse Durand testified in opposition to S 1243. Ms. Durand reiterated earlier testimony regarding accuracy and scientific legitimacy of APR.

Senator Winder asked Ms. Durand if she had any information that would substantiate her testimony. Ms. Durand commented the sample size was discredited. There is evidence progesterone is not inherently harmful, but there is no evidence it is beneficial. Senator Winder asked if the information she shared is from a study. Ms. Durand said she would give them the information.

Amber Labelle testified in opposition to S 1243. Ms. Labelle gave her credentials in veterinary medicine and in comparative ophthalmology. She taught graduate courses in scientific research and study design. Ms. Labelle summarized: how science is conducted; how studies are designed; and how medical professionals evaluate evidence.

Senator Winder commented science changes from time to time, as does medicine. He asked Ms. Labelle, if the study is found to be wrong, and then new evidence is brought forward, would that impact her opinion? Ms. Labelle suggested the study Dr. Harrison has should go through the peer-review process, allowing medical professionals and scientific experts to evaluate the study. She stated, in her opinion, the legislative body could then make scientifically sound health policy.

Neysa Jensen testified in opposition to S 1243. Ms. Jensen expressed her trust in trained medical advisors to share what is medically sound and what they know to provide the basis for her own decisions. She stated her desire for a private doctor-patient relationship without the government. She emphasized her feeling that it is not the Legislature's job to require a doctor to do one thing or another with their patients. Ms. Jensen concluded that doctor-patient confidentiality is the most important consideration.

Senator Winder noted this bill does not change any confidentiality or the right of privacy. He pointed out that the reason women have the right to abortion in this country is because of a government action.

Lori Burelle testified in opposition to S 1243. Ms. Burelle asserted if Dr. Harrison's research is peer-reviewed, published, and approved by the FDA, the study would become part of the medical record. Ms. Burelle stated this legislation is not necessary and will be costly to the State. She declared there should be no action and the State should let the science play out.

Vice Chairman Hagedorn specified this bill does not take away a woman's right to an abortion. Ms. Burelle replied the bill forces her doctor to lie about the efficacy of a procedure, thereby coming between a woman and her doctor. Senator Vick pointed out that the bill does not force the doctor to say anything.

Senator Den Hartog assured the Committee this legislation is Idaho-driven. She explained that Dr. Harrison traveled from North Carolina to provide details from someone pioneering the APR protocol. She pointed out this legislation would not require doctors to say something they do not believe. The bill provides
additional informed consent information to be given to a woman 24 hours prior to an abortion, but the doctor is not required to say anything about it. **Senator Den Hartog** urged support for **S 1243**.

**Senator Buckner-Webb** stated thalidomide, a medication used around 1960, was considered safe in 46 countries. The results of the use of thalidomide caused more in-depth studies to be required on medications. She commented it is vital we use only safe procedures.

MOTION: **Senator Vick** moved to send **S 1243** to the floor with a do pass recommendation. **Senator Hagedorn** seconded the motion.

**Senator Stennett** noted the APR information is already provided. She expressed concerns about the lack of information regarding who is operating the website for emails or the hotline; she is unsure whether they are certified doctors or other less informed people. She noted that the doctor has stated there is currently no documentation for public consumption. **Senator Stennett** indicated, because the APR protocol is being used, the bill is premature. She stated she will vote against the motion.

**Senator Anthon** spoke in favor of the motion. There has been testimony about protocol and he understood this is important to people. **Senator Anthon** specified that the proposed bill does two things:

1. It changes language from "hear the heart tone" to "observe the heartbeat."

2. It requires those providing abortions to provide "information directing the patient where to obtain further information and assistance in locating a health care provider whom she can consult about chemical abortion, including the interventions, if any, that may affect the effectiveness or reversal of a chemical abortion."

**Senator Anthon** noted the language does not advance any specific protocol or support any particular protocol. The bill further reads, "informs the patient that if she wants to consult with such health care providers, she should contact those health care providers before she takes the abortifacient", which gives the woman a choice. **Senator Anthon** advised that is all the bill requires. There is no requirement for any doctor to say anything, no requirement for anyone to have any procedure, and no statement that one procedure works over another. It does not require any false information. He stated he understands the passion, but he does not see in the bill all the concerns he has heard today. **Senator Anthon** stated he would support the motion.

**Senator Vick** reviewed a concern that women were getting too much information. He stated his opinion that was not the case; women can make good decisions. He perceived that a woman in this situation needs hope, and he believed this bill would give women hope. **Senator Vick** stated his understanding that the hotline is staffed by licensed medical professionals, 24 hours a day and 7 days a week. He stated he would support the legislation.

**Vice Chairman Hagedorn** stated the bill does not take a stand regarding the procedure. He noted if the result of the evaluation is that the protocol is not good, then that will be included in this information. The objective is to inform. **Vice Chairman Hagedorn** stated he will be voting for the bill.

**Senator Winder** commented he wanted to hear the testimony regarding this bill before deciding how to vote. He reiterated that medicine does change and has to start somewhere. He remarked the abortion issue has been a challenging concept for our State to address. He felt this is a reasonable approach to provide information for informed choice. **Senator Winder** stated he would support the bill based on testimony.
Senator Buckner-Webb stated her belief that it is important to consider what is good information and valuable to a woman to make her choice. She considered the information regarding the safety of the procedure inadequate. She indicated concern about the health of the woman and the child. Senator Buckner-Webb stated she will oppose the bill.

VOTE: The motion carried by voice vote. Senator Buckner-Webb and Senator Stennett were recorded as voting nay.

ADJOURNED: There being no further business at this time, Chairman Siddoway adjourned the meeting at 10:32 a.m.

__________________________________________________________________________

Senator Siddoway  Twyla Melton  Carol Cornwall
Chair  Secretary  Assistant Secretary
This legislation adds subsection f. to Idaho code 18-609(2) to Idaho’s informed consent statute for women considering an abortion. Informed consent materials are provided by the Department of Health and Welfare and are required to be given by the physician to the woman considering an abortion 24 hours prior to an abortion being performed. The new subsection f directs the Department of Health and Welfare to add language to the existing informed consent materials. The additional language would direct a patient where to find information or a health care provider who can answer questions related to the potential to reverse a chemical abortion before she has taken the second drug. Some women may regret taking the first pill and may be unaware of a medical protocol which can possibly provide them an opportunity to reverse the effects of the first pill.

Nationwide chemical or medical abortions account for approximately 1/3 of all abortions. Of the 1,289 abortions reported in Idaho in 2016 (latest year the data is available for), 581 were chemical abortions, 45%. Chemical abortions can be performed up to 10 weeks gestation.

The drugs used in the most common chemical abortion regimen are administered in two pills. The first is mifepristone. Mifepristone is a progesterone receptor blocker. It antagonizes the hormone progesterone which cuts off the nutritional supply to the unborn child. The second pill, misoprostol, is taken one to two days later at home. Misoprostol causes uterine contractions and expels the unborn child. There has been research and evidence of a developed medical protocol which has been successful in the reversal of the effects of the first abortion inducing drug, mifepristone. This protocol was developed by Drs. Delgado and Harrison who have successfully reversed the effects of mifepristone by starting the progesterone treatment within 24 to 72 hours of the patient ingesting the mifepristone and continuing through the first trimester. This may be an option for women who have taken the first abortion inducing drug, but find that they have changed their minds and seek an option to potentially continue their pregnancy. The doses of progesterone are designed to out-compete the mifepristone at the receptor level.

Research indicates that mifepristone, the first drug, alone is not always effective in ending a pregnancy. Fewer than 25% of pregnancies continue if only mifepristone is taken and nothing else is done. The American College of Obstetricians and Gynecologists in its March 2014 practice bulletin stated that mifepristone is not associated with birth defects. A woman may still have a viable pregnancy after taking the first abortifacient drug, mifepristone. The Abortion Pill Reversal hotline was established in 2012, by Dr. Delgado. To date the hotline has received over 2,400 calls from women seeking information on how to potentially reverse the effects of the first abortifacient drug. The hotline is staffed 24 hours a day/7 days a week by medical professionals, and connects the women who call with a physician in their area who is willing to provide the abortion pill reversal protocol. To date, there are five medical providers serving all regions in Idaho who are registered with the hotline and are willing to assist women in this way. According to Dr. Delgado, the overall success rate when the protocol is implemented is between 50-55%. To date, over 300 healthy babies have been born as a result of this protocol.
being implemented, and over 100 women are pregnant and expected to deliver healthy babies, according to the APR Director.

The potential exists for a qualified health care professional to reverse the effects of the abortion-inducing drug, mifepristone by giving additional progesterone. Progesterone has a long track record of use in pregnancy. The FDA concluded in 1999 that there is no risk of birth defects from progesterone. The American Association of Pro-Life Obstetricians & Gynecologists, a 2,500 member organization, supports offering the abortion pill reversal protocol to women who regret initiating the abortion pill process.

The Idaho Medical Association is neutral on the proposed legislation. This legislation is supported by Right to Life Idaho, the Family Policy Council, and Idaho Chooses Life.

The other change in the legislation clarifies language that was previously passed related to a fetal heartbeat. It strikes the language “hear the heart tone” and replaces it with “observe the heartbeat.” This change is a more inclusive phrase which would permit either seeing or hearing the heartbeat depending on the clinical setting and the medical professional judgment.

This protective legislation will require that a woman be informed that the effects of the chemical abortion pill can potentially be reversed in order to save her baby if she changes her mind after taking it.
Mr. Chairman, Members of the State Affairs Committee, my name is Rebekah Buell, and I am here representing the over 400 women who changed their mind after taking the Mifepristone, also known as RU486 abortion pill, the first of two pills prescribed in a medication abortion. I am here to ask for your support of S-12-43.

In February of 2013, I discovered that I was pregnant with my second child. I will never forget the day I sat there, in a grocery store bathroom, staring at that positive pregnancy test and feeling devastated and ashamed. I was one month away from being 19 years old, a freshman at Sacramento State University, and a mother to an 11-month-old child. I had just left the verbally and physically abusive relationship I had been in for years and felt that raising two children at 19, while in college, would be impossible. Feeling alone, scared, desperate and hopeless, I sought out a medication-abortion.

In the state of California at that time, I had 9 weeks to go through with my decision, and every day leading up to the time I swallowed that first pill brought a new emotion. This was never something I wanted to do, rather, it was something I felt I had to do because of my circumstances.

On March 13th of 2013, I walked into my final appointment at Planned Parenthood. At this point, I was about 8 weeks pregnant, and I was called back into one of the last rooms in the clinic where I sat with a woman who had the abortion pill in a small Dixie cup. She went over, again, how this entire process would be natural and similar to what women experience every month with their cycle. She explained that once I started this, "there was no going back." With that, I took the cup and swallowed the abortion pill in front of her. I was instructed to take the second set of pills, called misoprostol, the following evening.
I was then sent on my way with a brown paper bag full of medication. By the time I sat down in my car, I broke down. I could not believe what had just happened, and I began to feel intense sadness and regret. Crisis and fear had fogged my mind in the weeks leading up to this day, but I could now see clearly the extent of my actions, and I started to panic wondering what the pill was doing to my baby in that moment and if it had already run its course.

To make matters worse, the following day, March 14th, the day I was supposed to complete phase two of the abortion, was my oldest son’s first birthday. It began to sink in that March 14th would forever be a day I brought one child into this world and took another one out. I wanted, so desperately, to rewind and to take back the previous ten minutes of my life. I wanted, so badly, to change my mind and to have this baby.

Not knowing where or who to turn to, I grabbed my phone and typed in something like, “I took the first abortion pill, and I don’t want to take the second.” To my surprise, I was not the first woman to feel this way, nor was the first that turned to the internet for an answer. Instead, I read countless old blog and Yahoo Answer forums from the years prior from girls just like me—girls that had made a decision out of fear and panic and that were looking for a way to take it all back.

Eventually, I found abortionpillreversal.com and decided to call the hotline number. I spoke with the most kind and understanding nurse who explained the abortion-reversal regimen. She told me there was no way to know, indefinitely, if this would be successful, but that there was a chance to save my baby. The following morning, I drove over an hour and a half to the nearest physician willing to treat me, and to be honest, I would have drove even farther if needed. We followed the APR protocol that was suggested, which focused on getting
progesterone back into my body, because the abortion pill I took was designed to block my baby from receiving it.

When I did not return to my follow up appointment with Planned Parenthood, they began calling, and I finally returned their phone calls and informed them that I had changed my mind and was taking steps to reverse the abortion pill. I was then told that, “if I was able to carry to term, which wasn’t likely, my baby could very well have abnormalities.” That was the last time I talked to them, yet those words stayed with me throughout my entire pregnancy. Every time I coughed or had a pregnancy-related ache, I feared that this was “it,” and that I was losing the baby.

Thankfully, I did end up carrying to term, and on October 20th of 2013, I gave birth to my second son, Zechariah, who was and is perfectly healthy. He will turn five later this year, and I truly cannot imagine life without him. Over 400 other children have been saved because of the abortion-reversal regimen, and on behalf of the over 400 women who have been helped, I am here to express our gratitude, to share our stories, and, most importantly, to ask for your support of S-12-43.
Right to Life of Idaho strongly supports S1243 the Abortion Pill Reversal Informed Consent Legislation.

A woman has the right to know if she changes her mind after taking the first abortion pill, RU-486 that there is a possibility that she may be able to reverse the chemical abortion procedure.

That is all this legislation intends to do. It simply helps inform women about the abortion pill reversal procedure if she changes her mind.

Abortion Pill Reversal has been developed by prolife doctors and researchers. It has proven to be safe and effective. There have already been more than 2400 women who have called the Abortion Pill Reversal hotline. The APR Medical Director has stated that women when given the opportunity to reverse the effect of the abortion pill are extremely grateful for a second chance to save their baby.

There is a great need for women to be more aware of the possibility of abortion pill reversal. A number of women have told the APR Hotline nurses that when they changed their minds and called the abortion clinic personnel asking about reversal, they were falsely told that there is no possibility of reversal or that your baby is sure to have birth defects if you continue with the pregnancy.

Chemical abortions account for almost half of all the abortions performed here in Idaho. This is another reason which clearly supports the need to get this information about the reversal protocol to women.

Women should be aware that a good percentage of women who have tried the pill reversal have had good results in maintaining a healthy pregnancy and delivering a healthy baby. Already over 400 healthy babies have been saved by this reversal protocol.

Dr. Matthew Harrison, a medical expert on the abortion pill reversal protocol, is here to discuss the proven science of the pill reversal. Also Rebekah Buell, an abortion pill reversal Mother is here to relate her experience with pill reversal.

We have provided you with a Statement from the 2500 member American Association of Pro-life Obstetricians and Gynecologists. These 2500 prolife OBGYN strongly support offering the Abortion Pill Reversal to women who regret taking the first abortion pill.

We ask your support of S1243 with a Do Pass Recommendation. Thank you!

Kerry Uhlenkott, Legislative Coordinator
Common side effects of RU486

- Diarrhea
- Nausea
- Vomiting
- Headache
- Dizziness
- Back Pain
- Tiredness
- Risk of Infection

Source: www.earlyoptionpill.com/section/resources/medication_guide

A Story of Regret

"I went back into the waiting room and when they called me back I was taken to a room with an ultrasound machine. I remember lying down and the doctor checking to see how far along I was. I remember seeing my baby. The doctor then proceeded to lead me out into the waiting room until she called me back to give me the first abortion pill (mifepristone RU486). I took the pill with no hesitation. I just wanted out of there and didn't want to think about it ever again. I had to take the second pill the next day so the abortion process would finish.

I remember hours after taking the second pill excruciating pain, crying and bleeding. My husband was with me that whole night and neither of us got any sleep. After the abortion we never spoke about it again but, it never left my mind. The guilt haunts me until this day. I think about how old my baby would be and if it would have been a boy or girl."

CALL RIGHT AWAY
877-558-0333

APR
abortionpillreversal.com

abortionpillreversal.com
The American Association of Pro-Life Obstetricians and Gynecologists, a 2500 member organization, supports offering abortion pill reversal (APR) to women who regret initiating the abortion pill process, after appropriate informed consent. We recently co-sponsored a press conference at the National Press Club supporting APR, and dispute the accusation that this procedure is "junk science." The use of progesterone to counteract mifepristone, a synthetic anti-progesterone steroid, is a logical extension of decades of therapies for pregnancy loss caused by progesterone deficiency. Research studies have shown that use of progesterone reverses the effects of mifepristone blockage, and progesterone has been used safely for decades in pregnant women. Many women are ambivalent about their abortion decision, and there is increasing evidence that many abortions are coerced. These women welcome the opportunity to reverse their initial decision, and should be given accurate information about this process.

Progesterone reversal of mifepristone is an off-label use of an FDA approved drug. Off-label use of FDA approved drugs is legal, and widely prevalent in the USA. In fact, the most common abortion pill protocols use non-FDA approved doses, and non-FDA approved protocols for pregnancies beyond seven weeks. It is hypocritical for abortion advocates to criticize off-label use of pharmaceuticals when in fact they are widely engaging in this practice themselves.

It is also inaccurate for abortion advocates to state that 30-50% of babies survive mifepristone. Research studies have demonstrated that the use of mifepristone alone allows for 7% to at the very most 40% initial survival of the mifepristone poisoning, depending on gestational age. Our reversal process has thus far demonstrated better survival that this. Although some babies will survive mifepristone without additional progesterone support, it is scientific common sense to supply the hormone being blocked in order to increase the survival rate of fetuses for women who have changed their mind. We believe there is ample evidence that progesterone markedly improves survival.

A small case series of this new procedure has been reported in the Annals of Pharmacotherapy, a peer-reviewed journal, in December, 2012. As of March 31, 89 babies have been born and dozens more unborn babies are alive following progesterone reversal of mifepristone. Only one minor birth defect, a port-wine stain, has occurred this group thus far; this does not appear related to the mifepristone or progesterone. More than 200 physicians are part of a national network providing this service to women. Outcomes of treatment are reported to the APR project of Culture of Life Family Services, and analyzed by physicians, RNs and a statistician associated with the project. As more women receive this therapy, the results will continue to be reported in the medical literature. And more mothers of newborns will gladly share their gratitude at receiving help in reversing their mistake.

Mary L. Davenport, MD, FACOG, Director of Public Policy
Donna J. Harrison M.D. Executive Director
American Association of Pro-Life Obstetricians and Gynecologists

www.aaplog.org Life. It's why we are here.

"When mom changes her mind," Mary L. Davenport, MD, FACOG American Thinker, February 24, 2015
http://www.americanthinker.com/blog/2015/02/when_mom_changes_her_mind_reversing_pill Abortions in progress.html

"Wantedness and coercion: key factors in understanding women's mental health after abortion." Marth Shuping, MD, June, 2011, Association for Interdisciplinary Research on Values and Social Change,
http://www.theunchoice.com/articles/howcommoniscoercion.htm

April 1, 2015
AAPLOG FACT SHEET  Abortion Pill Reversal

The American Association of Pro-Life Obstetricians and Gynecologists strongly supports a woman’s right to choose to keep her pregnancy, and to attempt to reverse the effects of a medical abortion which she no longer desires. The Abortion Pill Reversal process is safe for both the mother and for her unborn child, and offers a real chance for the woman to rescue her unborn child when she has changed her mind about abortion. The following facts about APR are important to understand:

- Progesterone is the hormone produced by the mother’s ovaries, which allows the mother’s womb to carry an unborn child. ("Pro"=for, "gest"=pregnancy, "erone" = hormone). When progesterone is too low, the unborn child cannot receive nutrients, and dies. ASRM FACT SHEET (Ref 1)

- Mifepristone (RU486/Mifeprax) is a progesterone blocker. (Ref 2) Mifepristone blocks progesterone from allowing the womb to nourish the unborn child. But Mifepristone is a REVERSIBLE (Ref 2) blocker—which means that the effects of Mifepristone can be stopped by adding large amounts of natural progesterone. The natural progesterone competes for the binding sites on the progesterone receptors, and kicks the mifepristone off of these binding sites.

- Natural progesterone has been used for over 50 years in the treatment of early pregnancies who are threatening to miscarry because the mother’s progesterone level is too low. Progesterone has also been used for over 3 decades in women who have conceived with IVF. In the extensive medical literature on the use of progesterone in early pregnancy, there are no increased risks of any birth defects with natural progesterone. (Ref 1)

- The use of natural progesterone to reverse the effects of mifepristone poisoning is a simple application of common sense in the treatment of poisonings in situations where the mechanism of poisoning is well understood. Mifepristone poisoning is well studied and well understood. Using natural progesterone to reverse mifepristone effects is a logical extension of understanding the biochemical mechanism of action of mifepristone. (Similar application is used in chemotherapy with methotrexate followed by leukovorin rescue.) (Ref 3)

- In children who survive mifepristone poisoning and continue to birth, mifepristone alone has not been found to be associated with birth defects. In those children who have survived after the mother has ingested mifepristone alone, there have been no increased risks of birth defects noted. (Ref 4)

- The APR protocol involves giving natural progesterone to women who have taken mifepristone alone—who have not yet taken the second abortion drug misoprostol. (Ref 3)

- The APR protocol increases the chances that a baby will survive after the mother ingests mifepristone. Without APR, the chances that an unborn child will survive mifepristone poisoning are around 15%. However, if the mother receives the APR rescue, then 65-70% of the babies will survive. There are currently 200 babies born nationwide after using the APR protocol, and another 100 coming soon. (Ref 6)

- The babies born after using the APR protocol are not at increased risk for birth defects. (Ref 4)

- See AAPLOG FACT SHEET REFERENCES Abortion Pill Reversal

Life. It’s why we are here.

AAPLOG  |  PO BOX 395 Eau Claire, MI 49111-0395  |  www.AAPLOG.org
AAPLOG FACT SHEET REFERENCES Abortion Pill Reversal

- ASRM FACT SHEET


- Davenport et. Al. publication pending.
Written Testimony of George Delgado, M.D., F.A.A.F.P., in Support of Colorado Abortion Pill Reversal Bill

George Delgado, M.D., F.A.A.F.P.  |  February 16, 2017

On Thursday, February 9, 2017, the Colorado House Health, Insurance and Environment Committee held a hearing regarding House Bill 1086 (HB 1086), the Abortion Pill Reversal Information Act. HB 1086 provides that prior to initiating a chemical abortion, a physician must alert the woman to the fact that it may be possible to reverse the abortion should she change her mind and that information on the possibility of reversal is available in state-prepared materials.

George Delgado, M.D., F.A.A.F.P., Medical Director of Abortion Pill Reversal, submitted the following written testimony in support of HB 1086.

To view Delgado’s testimony in PDF format, please see “Written Testimony of George Delgado, M.D., F.A.A.F.P., in Support of Colorado Abortion Pill Reversal Bill.”

Testimony Before Colorado Legislature
George Delgado, M.D., F.A.A.F.P.
Medical Director,
Abortion Pill Reversal
February 9, 2017

Madam Chair Joann Ginal, members of the committee, thank you for the opportunity to present to you today. My name is Dr. George Delgado, the medical director of Abortion Pill Reversal, and I am here to support this bill because women who change their minds after taking mifepristone, also known as Mifiprex, RU 486 and the abortion pill, have the right to know that they can choose to attempt to reverse the medical abortion procedure.

Abortion pill reversal (APR) is safe and effective. Our experience, after more than 2,000 calls to the APR hotline, is that women given the opportunity to reverse the effects of mifepristone are very grateful.

Additionally, we feel that there is a need for greater awareness of the possibility of reversal. Several women have told our hotline nurses that when they changed their minds and called their respective abortion centers inquiring about reversal, they were erroneously told that there is “no possibility of reversal” or that “your baby is sure to have birth defects.”

The abortion pill, mifepristone, is different from the “morning after” pill. The morning after pill is designed to be taken within 72 hours of intercourse (except Ella) to prevent
pregnancy." Mifepristone is approved for use up to 10 weeks of pregnancy. It is a deliberate attempt to abort a known pregnancy.

Mifepristone is a progesterone receptor blocker; it blocks the effects of progesterone which are essential for a healthy pregnancy. By attacking the placenta, mifepristone leads to the death of the unborn child.

Mifepristone has been available in the United States since 2000. Currently, 30-45% of abortions are performed with mifepristone (about 300,000-450,000/year). At Planned Parenthood affiliates, about 43% of abortions are accomplished with mifepristone (Reuters study 2015). Mifepristone is followed 24 to 48 hours later by a second drug, misoprostol (Cytotec), to completely empty the uterus. The new FDA label allows use up to 70 days after the last menstrual period (10 weeks of pregnancy).

Mifepristone is effective at killing the embryo or fetus. Survival of the embryo or fetus is about 15% if only mifepristone is taken and nothing else is done. Up to 40% of women will not completely empty the uterus when only mifepristone is taken. This is called "incomplete abortion." Incomplete abortion does not imply survival of the embryo or fetus, it only signifies that some contents still remain in the uterus. Misoprostol (Cytotec) is very effective at causing the uterus to contract and expel any contents. Women seek reversal after taking the mifepristone but before taking the misoprostol.

We published the first article in the medical literature describing the reversal of the effects of mifepristone.[1]

Since then, about 250 babies have been born after reversal and approximately 100 women are currently pregnant after reversal. Our success rates with our best protocols are 65-70% while our overall success rate is 50-55%. These rates are much better than the 15% survival rate if a mother takes mifepristone and does nothing.

The American College of Obstetrician Gynecologists, in its March 2014 Practice Bulletin, stated that mifepristone is not associated with birth defects. Our current study, soon to be published, is the largest series looking at birth defects and has found a birth defect rate about the same as the general population (3%).

Progestrone has a long track record of use in pregnancy. The FDA concluded in 1999 that there is no risk of birth defects.

Abortion pill reversal is safe and effective. Women who change their minds after taking mifepristone deserve the right to have a second chance at choice. Thank you very much for the opportunity to address you. Please let me know if you have any questions.

An informed consent law that requires abortion facilities to inform a woman prior to or soon after the first step of a chemical abortion that if she changes her mind, it may be possible to reverse the effects of the chemical abortion, but that time is of the essence.

Currently four (4) states have enacted laws requiring this information to be provided.

**States with Laws regarding Abortion Pill Reversal**

1. Arizona*
2. Arkansas
3. S.Dakota
4. Utah**

**Goes into effect May 9th 2017**

* A previous APR law was repealed following legal action in and was replaced with weaker language in accordance with the consent agreement. See Planned Parenthood Arizona, Inc., et al., vs. Mark Brnovich.

State Legislation Department
202.626.8819
## Abortion Pill Reversal Information Laws

<table>
<thead>
<tr>
<th>STATE</th>
<th>INFORMATION</th>
<th>STATUS</th>
<th>Link to Materials</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>If a woman consults the abortion clinic questioning her decision to abort and she has not yet taken the 2nd drug, she must be informed that the use of mifepristone alone to end a pregnancy is not always effective and that she should immediately consult a physician if she would like more information. Also requires the Department of Health services to establish and update a website with information on APR</td>
<td>In effect</td>
<td><a href="http://www.azdhs.gov/documents/prevention/womens-childrens-health/informed-consent/a-womans-right-to-know.pdf">http://www.azdhs.gov/documents/prevention/womens-childrens-health/informed-consent/a-womans-right-to-know.pdf</a></td>
</tr>
<tr>
<td>Arkansas</td>
<td>Requires the physician performing the abortion to inform the woman of the possibility of reversing the procedure at least 48 hours prior to the abortion. Also requires that information on reversing the effects of abortion-inducing drugs is available in materials prepared by the Department of Health.</td>
<td>In effect</td>
<td><a href="http://www.healthy.arkansas.gov/programsServices/healthStatistics/Documents-abortion/abortionondecisionbook.PDF">http://www.healthy.arkansas.gov/programsServices/healthStatistics/Documents-abortion/abortionondecisionbook.PDF</a></td>
</tr>
<tr>
<td>South Dakota</td>
<td>The Department of Health must develop and maintain a multi-media website that contains web pages covering information on discontinuing a drug-induced abortion.</td>
<td>In effect</td>
<td><a href="http://doh.sd.gov/abortion/induced-abortion-methods-risks.aspx">http://doh.sd.gov/abortion/induced-abortion-methods-risks.aspx</a>?</td>
</tr>
<tr>
<td>Utah</td>
<td>A woman must be informed of the options and consequences of aborting a medication-induced abortion at least 72 hours prior to the abortion. The Department of Health must publish printed materials containing information about the options and consequences of aborting a medication-induced abortion and include a statement saying that a viable pregnancy is still possible after taking mifepristone</td>
<td>Goes into effect May 9, 2017</td>
<td><a href="https://mihp.utah.gov/wp-content/uploads/2017_Final.pdf">https://mihp.utah.gov/wp-content/uploads/2017_Final.pdf</a></td>
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1088 E. Fleetwood Ct.
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208-871-0221
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February 12, 2018

To: Sen. Jeff Siddoway, Chairman
   Sen. Marv Hagedorn, Vice Chairman
   Members of the Senate State Affairs Committee

FROM: Julie Custer, Co-President
      AAUW Idaho

Re: Testimony Opposed to S1243

Chairman Siddoway and Committee Members,

My name is Julie Custer and I'm co-president of the American Association of University Women of Idaho (AAUW-Idaho). I am speaking to you today on behalf of the over 900 AAUW members and supporters in Idaho who oppose Senate Bill 1243.

AAUW-Idaho supports the right of every woman to access safe, affordable, and comprehensive reproductive health care. AAUW-Idaho trusts that every woman has the ability to make her own informed choices regarding her reproductive life within the dictates of her own moral and religious beliefs.

Senate Bill 1243 would undermine these principles by requiring medical professionals to provide information to patients that is not scientifically proven.

Other states have gone down this path before and their experiences are illuminating. In 2015 Arizona passed a similar bill that required doctors to tell women that the effects of taking RU-486, a form of medication abortion, could be reversed. Under pressure from a lawsuit in federal District Court over the bill, the Arizona legislature repealed the law in 2016.

While the fiscal note to Senate Bill 1243 says "This legislation is expected to have a minimal fiscal impact to the Department of Health and Welfare" we would suggest that there could be a
significant fiscal impact on the state budget in the form of legal fees necessary to potentially defend this bill in court.

Additionally, in 2016 the Louisiana legislature passed a concurrent resolution requiring the Louisiana Department of Health to publish a study examining whether an abortion induced with drugs or chemicals can be reversed. The department convened a panel of experts in obstetrics, gynecology, and pharmacology to aid in the study. The panel unanimously agreed that there is insufficient evidence to suggest that there is a sound method to reverse a medication-induced abortion.

Instead of requiring our doctors to promote bad science, AAUW-Idaho advocates putting prevention first by supporting a comprehensive legislative package of preventive health and education measures designed to help reduce unintended pregnancy and to support reproductive health. We believe that access to complete reproductive health services enhances women’s reproductive choices, which leads to improvements in women’s health and economic security.

AAUW Idaho respectfully requests that you vote “No” on Senate Bill 1243. Thank you.
Statement of Support: Senate Bill 1243 – Abortion Pill Reversal Informed Consent Legislation

Terry Lennox RN, PsyD
- Registered Nurse: 37 yrs – Including High Risk OB, Fetal Intensive Care, traumatic pregnancy loss, perinatal education... Recently retired from St. Luke’s MSTI. Active RN licenses in the states of California and Idaho.
- Served as Trauma Response Psychotherapist – The Counseling Team International (San Bernardino, CA). Critical Incidence stress debriefings, marriage/family/individual counseling - specialty Police/Fire Dept./workplace trauma... Currently serve as facilitator of Rachel’s Vineyard Boise - Poet Abortion Healing Retreats (trauma cognizant model offered in 66 countries).

The Code of Ethics for Registered Nurses articulates the ethical obligations central to our profession. The essence of the Code is captured in the first of nine provisions.

Provision 1: The nurse practices with compassion and respect for the inherent dignity, worth, and unique attributes of every person.

The American Nurses Association interprets this provision to insures that patients have “the right to self-determination” including “a moral and legal right to determine what will be done with and to their person.” The nurse’s obligation is to assure the patient has accurate, complete, and understandable information on which to base her decision regarding a course of treatment.

A woman who chooses drug-induced abortion has little time to grapple with a life altering decision, made under harrowing circumstances. Women attending our retreats share their memories of the decision-making process. Their stories portray themes of fear, ambivalence, coercion, abandonment, lack of support, and more. The multi-step process of drug induced abortion leaves a woman particularly vulnerable as she leaves the clinic with a still living child and no provision for support during the critical hours or days that follow when she may regret her decision or feel desperate to save the life of her child.

At a basic level of competency, each medical encounter begins with informed consent and ends with provision of a comprehensive discharge plan. It would make sense that as medicine advances, informed consent would be updated to reflect the option of APR as a safe and effective process that may not otherwise be known to the patient.

The California Board of Registered Nurses acknowledges that APR is relevant to the practice of Nursing, and as a result, the Board now offers continuing education units to any nurse who is willing to study this life saving process. I am currently registered for this course with at least one other Idaho nurse and we imagine others will do the same.

For the women who, following the APR protocol, give birth to healthy living children, the reward requires little explanation – but I would like to address the women who may not have a successful outcome. These women are just as important.

As Nurses, we do everything we can to provide for the health and well being of our patients and their families. We also journey with them into some of the darkest hours they will ever face. Having worked in a high risk OB setting, I can offer a first hand account of caring for mothers whose babies, despite all efforts, did not survive. These mothers express their heartfelt gratitude to the medical team who gave all that they had to give to save the lives of their children, and when it became clear that there was no hope for survival, the womb became a sacred space, much like hospice care, where each child was treated with honor and dignity. Over and over we heard – “Thank you for trying, for supporting me, for caring so deeply for me and for my baby... all the way to the end.”

Words of affirmation offered from a health care professional to a mother in grief are perhaps the greatest and most lasting gift of all. Our recognition of her courage to do all that she could do to save her baby and our recognition of her enduring love, bring her a peace of mind that paves the way to a healthy path toward healing.

The bill under consideration is a step forward in the advancement of a promising and life saving arena of medicine. Providing information regarding APR is one more way we offer our patients all that we can give.
February 8, 2018

Idaho State Affairs Committee Members
State Capitol
Boise, ID 83720

RE: Senate Bill 1243

Dear Committee Members,

My name is Dori Sanstrom and I am the Executive Director of Stanton Healthcare Magic Valley, Pregnancy Resource Center in Twin Falls. I am writing to you today in support of SB 1243.

Currently, women considering terminating their pregnancy by taking the abortion pill may not be receiving all pertinent medical information from their abortion provider. As part of true informed consent, women who are considering the difficult choice to terminate their pregnancy should be told there is a physician in her area that can provide information and medication that may halt the medical abortion process should she change her mind. Some women may choose to attempt abortion pill reversal and some may not, but that decision should be between the woman and a physician. It would be tragic to force a woman to undergo the trauma of terminating a pregnancy she now wishes to carry to term by withholding information and forcing the continuation of an abortion she no longer desires.

At Stanton Healthcare Magic Valley, we respect a woman’s right to receive evidence-based information about her reproductive health and pregnancy options, including information about abortion pill reversal. Allowing a woman to know there may be an option to reverse the effects of the abortion pill should be included as part of informed consent information. It has been our experience that when decisions are made quickly, in an overwhelmed state of stress—oftentimes with enormous outside pressures—women sometimes experience life-long regret.

Over three hundred babies have been born to mothers who experienced a change of heart after initiating the abortion pill and were brave enough to ignore propaganda calling abortion pill reversal “junk-science”. There are another 100 babies safe in their mother’s womb awaiting delivery. With backing from the American Association of Pro-Life Obstetricians and Gynecologists, a 2500-member organization, abortion pill reversal appears to be gaining recognition as a legitimate procedure. There is least one licensed OB-GYN, with hospital privileges in Twin Falls, willing to provide the education and ongoing medical care necessary to women who would like to attempt to save their pregnancy.

With that information, Stanton Healthcare Magic Valley is comfortable initiating protocol to provide information about Abortion Pill Reversal (APR) to our community. It is our plan to offer abortion pill reversal information, along with the APR hotline phone number, on our website, in our voicemail for after-hours calls, and to each client meeting with a medical professional for pregnancy testing in our clinic.
The State of Idaho gives a woman the right to choose to terminate her pregnancy. The State of Idaho should also give her access to information that will allow her the right to choose to save her baby.

I respectfully ask each of you to support a woman’s right to be fully informed when it comes to matters of her health. Please vote in favor of SB 1243.

Sincerely,

Dori Sanstrom, Executive Director
Stanton Healthcare Magic Valley
PO Box 2385
Twin Falls, ID 83301
(208) 734-7472
Good Morning

My name is Julie Lynde. I am the Policy Director for Family Policy Alliance of Idaho...formerly Cornerstone Family Council

It is a privilege to share with you our strong support for S1243 and to stand here and thank Right to Life of Idaho and Sen. Den Hartog for their diligence in providing hope and information to Idaho women.

At its core, S1243 is about saving a pregnant Idaho mother from a life of regret.

Every pregnancy is life-changing. When a mom whose pregnancy is a crisis chooses an abortion because her current circumstances are screaming at her and then has a change of heart...what kind of choice is left for her? Something is speaking to her through her fear, through her circumstances...and it is brave, fierce, and deserves attention.

You have already heard the details of the protocol that has safely reversed some chemical abortions. That means that if a pregnant mom revisits her choice, she has hope of possible success.

Why would someone oppose that?

The key to making important decisions about health is access to all relevant information. Women deserve this respect when making important decisions about their health—including abortion.

Idaho’s “Women’s Right To Know” statute is clear and compassionate. Strengthening this law by allowing her the knowledge of the potential to reverse a chemical abortion should she change her mind simply increases the amount of relevant, helpful information available. S1243 in no way impedes access to an abortion and places no additional burden on the abortion business.

This information empowers women.

Why oppose that?

Idaho vital statistics report that in 2016, chemical abortions accounted for more than 45% of abortions.

With so many women choosing to have an abortion by pill method outside a medical facility, without access to medical personnel, providing women access to information up front is even more critical.

S1243 is compassionate pro-woman legislation that discusses a safe protocol.

The protocol makes sense.
The former senator from Oklahoma, Dr. Tom Coburn is an OB-Gyn. He has delivered many babies in. Sen. Coburn was in Boise mid-February 2017. I mentioned to him the APR protocol, and Dr. Coburn had not heard of it, wanted more information because progesterone has been used to stop miscarriages this was of interest to him.

In follow up email communication, I sent him information on the protocol. On Feb. 18, 2017, I received an email response from him that said, “Love it. In essence, we are overwhelming progesterone receptors and neutralizing mifepristone. Thanks for the info.”

While APR is not a guarantee, it IS an opportunity.

Living with regret can be a cruel burden. We can get over the job or the college or the trip. But regret centered around our children can be suffocating.

Second chances are rare. S1243 extends the hand of support for a woman wanting to take that second chance. And if the protocol is successful, a life is saved.

And, she will know that she did all she could to undo a choice she regrets. She may be saved from a cruel burden.

We urge your Yes vote on S1243

Thank you

Julie Lynde Policy Director Family Policy Alliance of Idaho
Testimony--SB1243  
Monday, February 12, 2018  

I am Kacee O’Connor of Boise, Idaho. I am speaking on behalf of the SW Idaho Chapter of NOW, The National Organization of Women. Thank you for the opportunity to speak.

It is our position that SB1243 is bad legislation, and I encourage you to vote NO.

1) The section we most object to addresses so-called abortion reversal, which is based on one study that has been shown to be unreliable, unsubstantiated and invalid, 2) it intrudes the state legislature into the sacred relationship between a physician and a patient, and 3) it has the potential to cost Idaho taxpayers substantially because it will likely be challenged and found to be unconstitutional.

The Delgado study I mentioned has been discredited by renowned medical groups including the American Academy of Family Physicians, the American Congress of Obstetricians and Gynecologists and the American Medical Women’s Association as well as state health departments. It has been declared to be unethical, to have no basis in medical science and to be potentially dangerous.

Licensed physicians are expected to follow evidence-based practices evolving from peer reviewed research. This bill undermines the sacred relationship between a physician and a
OR SHOULD regret the decision to have an abortion, however medical providers cannot perform the procedure on patients who have not made a firm decision and signed a consent affirming that. Studies show that women typically do not experience uncertainty once they decide to have an abortion.

I am a recently retired Licensed Clinical Professional Counselor. In my practice, the many women I counseled following abortions overwhelmingly reported that the situations that led them to require abortions were traumatic. They did NOT, however, regret having them. My clients would have been harmed by this legislation because of the intrusion by lawmakers into a private medical decision made with a doctor based on sound medicine. This law would put physicians into an ethical dilemma because of incongruence between state law, professional codes of ethics and the Hippocratic oath.

These monumental issues mean that such legislation would likely be challenged in court and found unconstitutional. That could be a backstop, but it would mean taxpayers would once more get the expensive bill for a legal challenge to defend legislation that should not have been created in the first place.

Please vote NO on SB 1243. Thank you.

Kacee O'Connor
4989 E Stemwood Street
Boise, ID 83717
Testimony in Opposition to SB 1243
Mistie Tolman (Legislative Director, Planned Parenthood Votes)
February 12, 2018

Mr. Chairman, members of the committee, my name is Mistie Tolman and I am the Legislative Director for Planned Parenthood Votes in Idaho. We stand today to oppose Senate Bill 1243.

Planned Parenthood provides high-quality, evidence-based health care. At Planned Parenthood, we work every day to make sure every woman has a safe, compassionate, respectful experience. The abortion care we provide our patients includes medically accurate, unbiased counseling about all options available, including parenting, adoption, and abortion. We provide the support and information that women need to make the informed decision that is best for them.

The health care providers at Planned Parenthood and other providers follow rigorous medical standards and guidelines. These standards are developed using the most current medical evidence available, including guidance from trusted medical organizations such as the Centers for Disease Control and Prevention (CDC), the United States Preventive Services Task Force, and the American College of Obstetricians and Gynecologists. Senate Bill 1243 interferes with providers’ ability to use their professional skill and judgment to provide patients with information that is medically and scientifically accurate in order to protect and advance their health.

Everybody deserves accurate, comprehensive information and appropriate medical care. A woman should have accurate information about all of her options, and this information should support a woman, help her make a decision for herself, and enable her to take care of her and her family’s health and well-being. This bill does nothing to ensure access to this information or to protect women’s health.
Instead, it would require physicians to tell a patient where they can obtain assistance in locating a health care provider with whom they can consult about reversing a medication abortion, an unproven procedure with no basis in science.

There is no medical or scientific evidence to demonstrate that reversing a medication abortion is possible. And because there have been no clinical trials to produce objective or credible data, this has not been tested for safety, effectiveness, or the likelihood of side effects. This bill would effectively make women unwilling research subjects of an uncontrolled experiment and put their health at risk. The end result of this bill will be forcing licensed health care providers to refer women to misleading and inadequate information, when what they really need access to is safe, evidence-based medical care.

What’s more, this bill would require the Idaho Department of Health and Welfare to publish printed material and a website to provide this so-called information. Instead of requiring the state to spend scarce resources promoting make-believe medicine, the legislature should focus on measures that actually improve access to health care and reduce the need for abortion in the first place.

Women deserve high-quality, compassionate, and medically sound health care from trained professionals – not misinformation from politicians. This bill is yet another attempt to interfere with decisions made by a woman in consultation with her health care provider, with no regard for her health. We urge the legislature to focus on ensuring that all women have access to evidence-based health care rather than inserting itself into the exam room.

Thank you.
Testimony of Matthew Harrison, M.D. to Senate State Affairs Committee

Feb. 12, 2018

Mr. Chairman, Members of the State Affairs Committee, I am Dr. Matthew Harrison and I am here to ask for your support of S1243.

I would like to start by saying that like most physicians, I do not want to be told how to practice medicine by the government. But the job of the legislature is to ensure the protection and safety of its citizens against harmful, unethical, or dishonest practice and I am pleased to see that this committee has taken the time and interest to better understand the science behind Abortion Pill Reversal when a mother chooses life for her child. Many on this committee have a solid record of supporting women in their choice in medical care, and Abortion Pill Reversal has done just that, creating a network of providers who are ready at a moment’s notice to help women who have changed their minds and want to save the life of their unborn child.

As a matter of credentials, I hold a Bachelor’s Degree and a Master’s Degree in Biology from the College of William and Mary. I have worked in research labs at Johns Hopkins, Duke, and the Medical College of Virginia where I coauthored papers in peer reviewed journals, refining protocols for childhood leukemia (1) and identifying cannabinoid receptors in rat brain (2), as well as searching for genes on chromosome 19 that may be associated with Alzheimer’s Disease. I was awarded my Doctorate in Allopathic Medicine from the Medical College of Virginia and completed my residency at the University of South Alabama where I served as Chief Resident. I am currently a Board Certified Diplomate of the American Academy of Family Practice and work fulltime as a Hospitalist, with admitting privileges at 3 hospitals and active medical licenses in North Carolina and Virginia. I am the Medical Director for a free prenatal clinic near Charlotte as well as the Student Health Center at Belmont Abbey College. I am an Assistant Professor at Campbell Osteopathic School of Medicine and have served as an expert medical witness for the state of North Carolina. I might not be the sharpest tool in the shed, but I can assure you that I am not a purveyor of “junk science.”

Abortion Pill Reversal is a “real thing” and is based on real science. Mifepristone, the abortion pill, is a progesterone receptor antagonist. It blocks the action of progesterone by blocking the receptor. This prevents the formation of healthy blood vessels to the developing embryo and the mother’s body is tricked into thinking there is no progesterone. The lining of the uterus sloughs off just like in a normal menstrual cycle and the embryo dies. The second pill is taken 24-48 hours later and induces contractions, expelling the embryo (3). In 2006, a young woman named Ashley came into my office asking if there was any way for me to “save her baby” after she had taken the abortion pill 36 hours earlier. Knowing how Mifepristone worked, I offered her the chance of reversal by giving her progesterone supplementation, which we had already been using in our office as part of fertility treatments, to outcompete the Mifepristone at the receptor. Mifepristone is like a key that fits into a lock but cannot open it. By adding more functional keys, we are able to outcompete the mifepristone and turn the lock, activate the progesterone receptor, and sustain the life of the embryo. Even the pro-choice director of the reproductive and placental research unit at Yale School of Medicine, Dr. Harvey Kliman, said, “I think this is actually totally feasible...I bet you it would work,” and said that he would give his daughter progesterone if she wanted to reverse her abortion (4). Ashley went on the deliver a healthy baby girl named Kaylie who is now 11 years old and doing great.

In 2012, Dr. George Delgado and Dr. Mary Davenport published a case study report in the Annals of Pharmacology, detailing 6 case reports of women who had attempted to rescue their embryos after
medical abortion attempt. 4 of these were successful and 2 abortions completed (5). Since that time we have seen over 350 healthy babies born with over 100 more mothers continuing their pregnancies while currently on the protocol. There are over 400 providers that are ready and willing to offer reversals and we have had successful attempts in 14 countries. Our success rate overall is around 55% but with perfect use of either the injection protocol or the twice a day pill protocol, the success rate is reaching 70%. A second case study was just published in Europe this past december concluding that progesterone should be studied to look into its ability to reverse abortions (6). But some, even in the medical community, are touting this as “junk science” and not standard of care. So let me address these challenges regarding our data.

First, we should have a general understanding of how research is performed and how new drugs or protocols come into being. A woman who has just tried to abort her child and then changed her mind is generally in a very delicate and often emotional state of mind when seeking medical care to reverse her abortion. But that doesn’t mean she should be ignored or pressured to complete a procedure she does not want. Instead we should respect her wishes and do whatever we can to save her child while keeping her safety of utmost importance. The best way to help the person in the womb, is to help the person with the womb, and that is what we strive to do. Our data, therefore, must be retrospectively collected. It certainly would be unethical to give 1000 pregnant women the abortion pill and then give half of them progesterone and the other half placebo and see how many embryos survive, but that seems to be what some of our opposition would like to do. Instead, we take the science that is known to us already and apply it in the new way.

1. The science of progesterone competing with mifepristone for the receptor site is solid. This is easily found and described in the literature that was used to approve the abortion pill for use in 2000.

2. Animal models have shown that the effects of mifepristone on mice are reversed and nullified by progesterone supplementation (7).

3. Our retrospective case studies of almost 1000 women who have chosen to rescue their offspring has consistently shown 55% or greater successful reversals.

One of the main attacks on this science is from physicians saying that if a woman takes the first pill but not the second one that induces labor, that the chance of failed abortion is between 20%-50%. I have coauthored a paper with Dr. Mary Davenport that carefully reviews the literature regarding pregnancy termination by mifepristone alone (8). We reviewed hundreds of papers to find out the true survival rate of embryos after exposure to the abortion pill without exposure to the labor inducing pill. Our review shows that the true survival rate of embryos to be between 10% and 23.3% when they are only exposed to the abortion pill. This is significantly lower than the 55%-70% survival rate that we see after progesterone rescue. So where are their 50% failed abortion rates coming from? In the literature sited by opponents, they define “failed abortion” as the failure of the mother to expel a dead embryo or fetus. So, many of the “failed abortions” actually have resulted in a dead embryo, but it has remained in the uterus and was not expelled when the labor inducing pill was not taken. So there is no doubt that the progesterone treatments are effective. But what about safety?

Progesterone supplementation has been used for over 30 years in fertility treatments, specifically in women who have shortened luteal phases and are unable to produce enough progesterone to sustain a pregnancy, often resulting in multiple miscarriages. Dr. Thomas Hilgers has done the bulk of this
research while developing NaPro fertility treatment protocols. It has been found safe for the mother and produces no increased risk of birth defects to the baby (9). We use bioidentical progesterone, such as Prometrium at physiologically equivalent levels, so risk of clots or other side effects to the mother is minimal. The incidence of serious side effects for women using supplemental progesterone is no greater than for women using similar doses for birth regulation. Gynecologists consider progesterone use for birth control or cycle control as standard of care, and they routinely prescribe if for years on end. Our protocol, however, generally uses progesterone only for about 3 to 7 weeks, from the time of attempted abortion to the end of the first trimester. But what about birth defects in babies that survive the abortion pill? Surprising, the only birth defect that has been attributed to the abortion pill, mifepristone, is death. In embryos that survive the abortion pill, there is no significant increase in other birth defects (10). If embryos survive the combination of Mifepristone and Misoprostol, there is a 5%-50% chance of Moebius Syndrome which causes a weakness or paralysis of the 6th and or 7th cranial nerves resulting in an inward turning eye or a facial nerve palsy and possibly limb abnormalities (11). But our patients have not taken the second pill which can cause birth defects. So, to reiterate, there is no increased risk of birth defects with progesterone use or with the abortion pill, but there is an increased risk if the embryo is exposed to misoprostol.

So we have established the science and the safety, but why the law? In speaking with the hundreds of women that have taken the abortion pill and regretted it, we have heard countless stories of mothers returning to the abortion clinic for help, only to be mislead by incorrect information and scare tactics to complete their abortions. This is unethical, unscientific, and can be unsafe for a frustrated mother who may then abandon all medical advice and have a prolonged and unsupervised abortion at home. S1243 provides for mothers to have full informed consent regarding the possibility of reversal if they change their minds. Mothers who do not change their minds can simple ignore the information, but for those that have regrets, this information gives them hope, help, and the potential of life for their child. Thank you, Mr Chairman and members of the State Affairs Committee, I will be happy to answer any of your questions.


How Can You be a Part of This History Changing Team?

First, pray that God will open the door for the APR Protocol to be used in emergency apartments throughout the country. Second, please support this ministry financially.

$25 will provide Progesterone for 2 days to help bring back health and vitality to God's precious child.

$50 will assist us in contacting 10 doctors throughout the country, to introduce them to this protocol so that they may be able to safely and effectively administer the progesterone injections to that mother who so greatly desires a "second chance."

$100 will provide the counseling and ultrasound procedure to make the difference in the mother's choosing life.

$200 will staff our 24/7 APR Hotline for one day.

$1000 will cover progesterone, ultrasound exams and medical appointments for women undergoing reversal.

For More Information, Please Contact:
- (619) 577-0997
- apreravals@gmail.com

Or Visit Our Website at:
- www.abortionpillreversal.com

Please Send your Life-Saving Donations to:
Abortion Pill Reversal Program
5030 Camino de la Siesta Suite 106
San Diego, CA 92108

(Please make checks out to Culture of Life Family Services)

Thank You for Choosing to Support Life!
Since 2000 When Mifepristone (RU 486) Was First Approved by the FDA, the So-Called "Abortion Pill" Has Resulted in Over 2,000,000 Abortions.

What is the Abortion Pill Reversal Protocol?

George Delgado, M.D. and other physicians have discovered that the hormone progesterone, when taken in sufficient doses, can reverse the effects of mifepristone (RU 486). Dr. Delgado published the first article in the medical literature describing the reversal of mifepristone using progesterone (Annals of Pharmacotherapy Dec. 2012).

As of January 2015, the APR staff has taken calls from over 500 women who took mifepristone and had regrets. Not all the women who called started the reversal protocol. Of those that started the protocol and we were able to follow, more than 60 have delivered healthy babies, with no birth defects reported. More than 120 are currently pregnant.

Can There be Birth Defects from Taking Mifepristone (RU 486)?

Although the second drug in the medical abortion protocol, misoprostol, can cause birth defects, the current medical consensus is that mifepristone (RU 486) does not appreciably increase the risk of birth defects.

What About any Side Effects from Receiving Progesterone?

Progesterone has been used in pregnancy for many years. All of the scientific studies conclude that progesterone does not cause birth defects.

How Successful Has Progesterone Been in Preventing Miscarriage After Mifepristone (RU 486) Has Been Taken?

Currently, there is about a (update all stats) 60% success rate of the mother carrying her baby to full term after taking progesterone as prescribed by her physician.

Can the Abortion Pill Reversal Protocol Be a Game Change?

Absolutely! Dr. Delgado and his team will soon have enough data to publish a larger case series in another recognized medical journal. Statistically proven research demonstrating the success of the APR protocol will lay the foundation for its acceptance in emergency departments throughout the country and around the world. With increased awareness of Abortion Pill Reversal, it will become the standard of care for women who change their minds after taking mifepristone (RU 486).

Information regarding abortion pill reversal could become part of the informed consent process that abortion centers would discuss with their patients inquiring about medical abortion.

With over 200,000 chemical abortions being performed every year, reaching just 5% of the women with this life saving protocol could save 10,000 babies each year!
Twyla Melton

From: Kathy Griesmyer <kgriesmyer@acluidaho.org>
Sent: Saturday, February 10, 2018 12:06 PM
To: Senator Brent Hill; Senator Chuck Winder; Senator Jeff Siddoway; Senator Marv Hagedorn; 'Plodge@senate.idaho.gov'; Senator Michelle Stennett; Senator Cherie Buckner-Webb; Senator Steve Vick; Senator Kelly Anthon
Cc: Twyla Melton
Subject: ACLU urges opposition to SB 1243 - Abortion Reversal Legislation
Attachments: Testimony SB 1243.pdf; HCR87RS20161.pdf

Members of the Senate State Affairs Committee –

Attached, and below, please find the ACLU’s comments urging your opposition to SB 1243 - Abortion Reversal Legislation. I have also attached the Louisiana Dept. of Health study that I cited in my testimony if you’d like to review. If you have any questions or comments prior to Monday’s committee meeting, please feel free to contact me at 208-890-3800. Thank you.

Testimony of Kathy Griesmyer
OPPOSE SB 1243: Abortion Reversal Informed Consent
Before Senate State Affairs Committee
February 12, 2018

The ACLU of Idaho stands before you today in opposition to SB 1243 as it mandates that the Idaho Department of Health and Welfare (through a woman’s physician) provide women with medically inaccurate information as they prepare to get abortion care. Specifically, it requires that during the state-mandated counseling period, which women must receive prior to an abortion, medical providers must tell women where to obtain information regarding how a medication abortion can be reversed. This bill is based on a faulty and inconclusive study and seeks to undermine a medical procedure at the expense of a woman’s safety and medical rights.

Bills like SB 1243 are based on a case study published by an anti-abortion doctor, George Delgado, who gave six women an injection of progesterone after taking the first medication in a medication abortion, and before they took the second medication. Four women carried their pregnancies to term[1] - which may not be a result exclusively based on the injection, but rather because the first medication is not designed to work on its own so the abortion does not complete. Because medication abortion requires this combination of both medications, mifepristone and misoprostol, many women will not abort just from using the first medication. In 30-50% of women who take mifepristone alone, the pregnancy will continue.[2] An institutional review board did not supervise this study and there was no ethical review committee, required to protect human research subjects, which raises serious questions regarding the validity of the results. Case studies with no control groups are among the weakest forms of medical evidence[3] and as such, the results of the Delgado study do not provide clear scientific evidence that progesterone resulted in the continuation of the stated pregnancies.

In 2016, the Louisiana Legislature also considered introduction and passage of similar legislation. Instead, the state passed House Concurrent Resolution 87 requesting that their Department of Health study whether medication abortions can be reversed and to report the findings. Their Office of Public Health, which conducted the study concluded:

"The panel of experts convened by LDH to review this procedure unanimously concluded, based on their professional experience in the areas of obstetrics/gynecology, pharmacology, and nursing and the above-referenced research, that there was insufficient evidence to conclude that the administration of progesterone in an attempt to reverse a medication abortion is scientifically sound. In reaching this conclusion, the panel expressed great concerns about the experimental nature of using progesterone treatment after taking mifepristone, as highlighted in the Delgado study, and the failure of the study to meet the established standards of safety, efficacy, and ethics."
After review of the professional opinions expressed by the panel of experts, the Department finds that there is neither sufficient evidence nor a scientific basis to conclude that the effects of an abortion induced with drugs or chemicals can be reversed.¹⁴

In addition to the inconclusive results of the unsupervised Delgado study, major medical groups have come out in opposition to this type of law because it forces doctors to provide women with medically inaccurate and misleading information that could be harmful to their health. Groups like the American Academy of Family Physicians, the American Congress of Obstetricians and Gynecologists, the American Medical Women’s Association, the American Public Health Association, and the National Physicians Alliance signed a letter stating their concerns with abortion reversal legislation. Their letter states that the medication abortion reversal claim is wholly unsubstantiated by any reliable evidence, with no basis in medical science. Instead they ask lawmakers to not force medical providers to “choose between their professional and ethical obligation to provide evidence-based, high-quality care and following misguided laws,” and that “patients should not receive care that has no medical basis or is inappropriate to their circumstances.”¹⁵

By requiring physicians to tell women that a medication abortion may be reversed — despite no scientific or medical evidence to support this claim — it undermines the informed consent process and risks misleading women to believe they do not need to be certain about their decision before beginning the medication abortion process. Furthermore, the American Psychiatric Association stated that legislation like SB 1243 is used “as an instrument for discouraging pregnant women from exercising their constitutional right to make their own reproductive choices. These laws intrude into the privacy of physician-patient communications and, in so doing, compromise the rights of both patients and physicians.”¹⁶

Overall, abortion remains an incredibly safe procedure (99% according to the Center for Disease Control) and medication abortion, used during the first-trimester of a woman’s pregnancy, is one of the safest medical procedures and poses a minimal risk—less than 0.05%—of major complications that might need hospital care. If SB1243 were to go into effect, this law would force doctors to provide a woman seeking a safe, legal abortion with medically inaccurate and misleading information that could be harmful to her health. For these reasons, we urge your no vote and ask that you protect a woman’s constitutional right to make her own private medical decisions.

¹⁵ Coalition to Protect the Patient-Provider Relationship. “Statement of Members of the Coalition to Protect the Patient-Provider Relationship Regarding Mandating Health Care Professionals Provide Unsubstantiated Medical Information” https://www.apha.org/~/media/files/pdf/advocacy/letters/2015/150415_patientprovider.aspx

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# AMENDED AGENDA #2
## SENATE STATE AFFAIRS COMMITTEE
### 8:00 A.M.
#### Room WW55
#### Wednesday, February 14, 2018

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<td>The gubernatorial reappointment of Shane Gehring to the Bingo-Raffle Advisory Board.</td>
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<td>RS26189</td>
<td>RELATING TO SELF-DEFENSE to make corrections and, to repeal and amend certain sections.</td>
<td>Senator Lakey</td>
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<td>RS26162</td>
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<td>S 1255</td>
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<td><strong>MINUTES APPROVAL:</strong></td>
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<td>Senators Vick and Lodge</td>
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*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**
- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge

**COMMITTEE SECRETARY**
- Twyla Melton
- Room: WW42
- Phone: 332-1326
- email: sstaf@senate.idaho.gov
MINUTES

SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 14, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

VOTE ON GUBERNATORIAL APPOINTMENT: Senator Lodge moved to send the Gubernatorial reappointment of Shane Gehring to the Bingo-Raffle Advisory Board to the floor with the recommendation that he be confirmed by the Senate. Senator Buckner-Webb seconded the motion. The motion carried by voice vote. Senator Lodge will be the floor sponsor.

Chairman Siddoway announced Senator Lakey was called away and Senator Vick would present RS 26189.

RS 26189 RELATING TO SELF-DEFENSE to make corrections and to repeal and amend certain sections.

Senator Vick, District 2, stated the purpose of RS 26189 is to consolidate case law and jury instructions regarding Stand Your Ground (SYG) laws and the Castle Doctrine into one place in Idaho Code. It also adds the place of employment, business, or occupied vehicle as places where justifiable homicide can be defined. The bill includes the presumption that if someone is breaking into a home, place of business or employment, or vehicle, they are doing so with the intent to commit a felony.

The proposed addition of Idaho Code § 19-201A, would incorporate provisions of the Castle Doctrine and SYG. The intent is to amend other sections for the "reasonable person" standard for defense and a self defense standard title would be changed. Senator Vick explained that Idaho Code § 19-202A(3) provides that the provisions of this subsection do not apply to persons incarcerated in jail or prison facilities when interacting with jail or prison staff who are acting in their official capacities. Sub Section 4 states that the burden of proof is on the prosecution. (Attachment 1)

MOTION: Vice Chairman Hagedorn moved to send RS 26189 to print. Senator Anthon seconded the motion. The motion carried by voice vote. Senator Buckner-Webb was recorded as voting nay.

RS 26162 STATING FINDINGS OF THE LEGISLATURE and recognizing March, 2018 as National Social Work Month.

Senator Buckner-Webb, District 19, spoke as a proud member of the National Association of Social Workers (NSW) and presented RS 26162 for the Committee’s consideration. In Idaho, over 5,000 social workers diligently work to positively impact the lives of Idahoans on a daily basis. Intervention is a key tenet
of social work practices and social workers are called on to interrupt behaviors and systems that range from problematic to life-threatening. Professional social workers are equipped to identify and manage these dilemmas. Most important, social worker's primary responsibilities are to: 1.) support the well-being of clients; 2.) promote the rights of clients; and 3.) assist clients in their efforts to identify, clarify, and realize their goals.

Senator Buckner-Webb announced the National Association of Social Workers will meet in the Capitol at the end of February to celebrate their work and to train. Senator Buckner-Webb requested support to proclaim March 2018 as National Social Work Month and to call upon Idaho citizens to join with the NSW to acknowledge, celebrate, and support the social work profession.

MOTION: Vice Chairman Hagedorn moved to send RS 26162 to print and then to the 10th Order of Business. Senator Lodge seconded the motion. The motion carried by voice vote.

S 1255 RELATING TO TOBACCO to revise the legal age regarding activities related to tobacco, tobacco products, and e-cigarettes; and other technical revisions.

Chairman Siddoway provided direction as to how the testimony on S 1255 would be heard. Many people signed up to testify, so it was necessary that the Committee limit the time each person could speak to three minutes.

Senator Fred Martin, District 15, thanked the Committee for the opportunity to appear. This bill was brought to the Committee last year and, because of the input the originators received, the bill this year is improved. (Attachment 2) Senator Martin turned his time to Corey Surber.

Corey Surber, Director of State Advocacy, Saint Alphonsus Regional Medical Center and Chairman of the Board of United Way of Treasure Valley, expressed appreciation for the opportunity to appear before the Committee in support of S 1255. This bill is intended to decrease youth tobacco use; the objective is to save thousands of lives and millions of dollars in health care costs far into the future. According to the Commissioner of the Food and Drug Administration (FDA), tobacco use is the leading cause of preventable disease and premature death in the United States (U.S.), and one of the largest drivers of healthcare costs.

Ms. Surber quoted statistics in support of this legislation (Attachment 3). This bill would change the legal age of tobacco possession from 18 to 21. It also proposes to change references from "minor" to "youth", or persons under the age of 21 years. The bill would add a retail exception for those employees from 18 - 20 years of age and adds a retail clarification for employees under 18. The legislation also proposes to add retail signage updates to include references to cigarettes. Ms. Surber stood for questions.

Senator Stennett referred to the 25th National Survey on Drug Use and Health for age 18 and older; 86.4 percent reported they still drink alcohol; 70 percent drink alcohol regularly; 50-67 percent admit to binge drinking. The National Minimum Drinking Age Act of 1984 changed the age to 21 to purchase alcohol and since it has been in existence those numbers have not decreased. She wondered if, by comparison, the change being contemplated for tobacco will actually occur. Ms. Surber responded that data from the Monitoring the Future survey shows a decrease in binge drinking by 22 percent and youth drunk driving involvement in fatal crashes decreased by 61 percent. The National Highway Traffic Safety Administration reports, since 1975, increasing the minimum drinking age has saved more than 21,000 lives. Senator Stennett agreed with the reports on accidents, but she stated smoking does not have the same impact as alcohol does. She stated her appreciation for the statistics.
Vice Chairman Hagedorn asked if there was any information about the effectiveness of the Idaho State Police (ISP) sting operations on sales of cigarettes. Ms. Surber did not have that information.

**TESTIMONY:**

Fred Birnbaum, Idaho Freedom Foundation, spoke in opposition to S 1255. Mr. Birnbaum's spoke to two unrelated issues: 1.) The impact of smoking on healthcare costs, and 2.) The appropriateness of requiring young adults to be 21 to purchase tobacco products. He explained healthcare costs have impacted Idaho with higher insurance premiums and soaring costs. The paradox is smoking has been trending down for over 50 years. Mr. Birnbaum clarified it is clear that those who smoke impact healthcare outcomes and quality of life; smoking is not a habit to be encouraged. Mr. Birnbaum told of his experience in the military and how young military personnel should not be allowed the choice of smoking. In conclusion, he reiterated that young adults at 18 years of age should be allowed to make the choice on smoking.

Senator Hill asked if it is Mr. Birnbaum's belief that the use of tobacco affects healthcare costs in the U.S. Mr. Birnbaum answered it is his belief it impacts healthcare costs. Despite a decline in smoking rates of over 60 percent among adults, a systemic cost savings has not occurred. Mr. Birnbaum stated that the increment that would occur in changing the age from 18 to 21 would be very insignificant. Senator Hill, for clarification, restated his question. Mr. Birnbaum stated he was not an advocate for smoking, he believes in the integrity of numbers and people who smoke die earlier. The totality of costs could be lower. He emphasized that the healthcare costs for that population would never be lower.

Liz Hall spoke in support of Tobacco 21. Ms. Hall stated she is a decorated combat veteran. She detailed her service and how the military addresses tobacco use. She discussed soldiers, their environments, how smoking affects their response time, and their physical fitness. She assured the Committee that if they would pass Tobacco 21, they could be assured they had done their part to ensure the health and safety of every deployed service member.

Vice Chairman Hagedorn thanked Ms. Hall for her service. Vice Chairman Hagedorn asked about her statement that soldiers who smoked would not be able to keep up with other soldiers. Based on that information, why hasn't the military banned cigarettes completely. Ms. Hall responded they work very hard to curb smoking, but the commanders respect the laws of the communities in which they operate and it is hard to ask soldiers to do things that their peers off base do not have to do. She said changes in the law would be respected.

Senator Vick stated that the military asks things of soldiers on base all the time that civilians off base have or do not have to do. Ms. Hall agreed. Senator Vick observed if it was a problem in the military they could create a limitation.

Chairman Siddoway thanked Ms. Hall for her service on behalf of the Committee.

Rick Wheldon, representing Jackson Food Stores, Inc. (Jacksons), spoke in opposition to S 1255. Jacksons has 83 stores in Idaho, and have been in business in the State for 43 years. S 1255 takes away the personal right of young adults who are making other adult decisions, to purchase or not purchase tobacco products. Mr. Wheldon outlined the decisions young adults 18 years of age could make and be held responsible for. He referred to the fiscal note that reflects the loss of tax revenue dollars between 2018 and 2021. Not only would this reduction affect retail sales, it would also affect ancillary sales of items such as gas, snacks, and beverages. If those 18-20 years of age shift their buying habits across state borders, those lost sales could affect the employment levels in the State.
Mr. Wheldon stated, as a retailer of age-restricted items, compliance is taken seriously. Employees are trained to monitor age-restricted sales and there is zero tolerance for underage sales of tobacco products. This law may encourage young adults to seek alternative sources for products, such as internet sales, which are not age-verified and do not always collect State taxes. Only five states have increased the age to purchase tobacco products to 21 years of age. Moreover, no long term empirical studies have been conducted to determine whether the raise in age actually reduces tobacco use.

Tom Dale, County Commissioner for Canyon County, Chairman of the Board of Trustees, and President of the Idaho Association of District Boards of Health, spoke in support of S 1255. Mr. Dale outlined the reasons S 1255 should become law (Attachment 4). Mr. Dale provided information about the results of changing the age for tobacco sales from 18 to 21. The town of Needham, Massachusetts was the first in the country to change the age to 21 in 2005. They saw a decrease in smoking of 46 percent at the high school within four years (Attachment 4). The asserted change does have an impact. On behalf of the Idaho Association of District Boards of Health, Mr. Dale asked for support for H 1255.

Andrea Jackson, President, Big Smoke and Tobacco Connection (BSTC), spoke in opposition to S 1255. BSTC has 50 stores from Portland to Idaho Falls and employs 300 Idahoans. Ms. Jackson cited consideration for: 1.) tobacco sales to youth have been reduced by 50 percent according to the FDA. Idaho tobacco retailers are the largest group keeping tobacco away from kids. Ms. Jackson stated her small company endured 120 compliance checks by different government agencies and passed at a 99 percent rating; 2.) to arbitrarily carve out 18 to 20 year olds from the adult pool and prohibit them from buying a legal product is wrong. Ms. Jackson elaborated on the reasons why: this age group is mature enough to make healthcare decisions, get married, join the military, make long term financial decisions, and be held accountable for their behavior. 3.) S 1255 would criminalize the purchase of a legal product and then burden law enforcement with the responsibility to enforce the law; 4.) Idaho is a State that believes in freedom of choice. Idaho does not criminalize behavior simply because we do not agree with it. Ms. Jackson respectfully asked for a vote against this bill.

Elana Story, Boise, Idaho, spoke in support of S 1255. Ms. Story provided personal family information and stated some reasons why she supports this bill: 1.) tobacco is known to be harmful, so everything possible should be done to prevent tobacco use among young people; that is when most users become addicted; 2.) nicotine harms adolescent brain development; and 3.) 95 percent of adult smokers begin smoking before they turn 21. Ms. Story shared a personal story regarding tobacco addiction. Ms. Story emphasized everything possible should be done to prevent tobacco use among young people, to reduce smoking and save lives.

Charley Jones, Owner and President of Stinker Stores, spoke in opposition to S 1255. Tobacco products are the number one sales category inside the Stinker Stores. They collect and remit millions of dollars in state excise taxes for Idaho from tobacco sales each year. He said simple legal product prohibition in this form is questionable public policy.

Pam Eaton, President, Idaho Retailers Association, spoke in opposition to S 1255. She stated their main concern: this regulation would create an uneven playing field for tobacco retailers. The retailers on tribal lands will continue to sell tobacco at age 18 as will neighboring states, except Oregon. Also, there are online sales. This bill will not curb smoking, it will push those who want tobacco products to go to those other providers.
Ms. Eaton called attention to two sections that she deemed confusing: 1.) page 3 of the bill, lines 31-43 regarding who will be fined; and 2.) page 6 of the bill, lines 25-37, specifically lines 33-27, again referring to fines. These two sections seem to oppose one another. These are two different penalties for a clerk who sells to someone under 21.

Oleg Kouskov, a physician pulmonologist at St. Luke's Regional Medical Center (St. Luke's). Dr. Kouskov is the codirector for the early detection of lung cancer. He expressed support for the bill. He stated he is on the frontline when seeing people at the other end of the tobacco process. Most of the lung cancer St. Luke's diagnoses is advanced, with a survival rate of six percent. Dr. Kouskov spoke about his patients, his own personal experiences, and emphasized that tobacco use incurs a huge cost for both humanity and the healthcare system. He stated society is not winning the fight even though cigarette use is down; the use of other tobacco products, such as electronic cigarettes, is not counted.

Anita Sloan, a senior at Borah High School and represents the Concerned Youth of Idaho, spoke in support of the bill. Ms. Sloan discussed what happens when fellow classmates turn 18 and can now purchase products that could be fatal. She expressed concern that one in three people will become life-long smokers if they start using tobacco before age 21. These same young people are targets for major tobacco companies. Increasing the age to purchase tobacco products will provide a safeguard against early onset addiction.

Senator Hill thanked Ms. Sloan for getting involved, as well as others across the State. He stated it is heartening to see young people get involved in government and public policy issues. You are the ones who will be affected the most. Senator Hill asked, in Ms. Sloan's experience, what percent of your peers would favor this kind of legislation. Ms. Sloan responded she is a runner, so her friend group is relatively large across Idaho and 50-60 percent of the people she knows have some type of tobacco product in their car or in their rooms. A majority of students fall victim to peer pressure to try tobacco products.

Vice Chairman Hagedorn congratulated Ms. Sloan for testifying and referred to her statement about the number of her friends under 18 that have tobacco products. How do you believe that moving the age from 18 to 21 would reduce the number of those friends who already have tobacco products? Ms. Sloan stated her friends and acquaintances get access through their friends who are 18 or older. She said, from her perspective, those people are less likely to have access when adults who are 21 have access. Education is not working. A law will show this is a serious issue and it is important to take it seriously. They will also see how harmful these products are.

Senator Vick complimented Ms. Sloan for her testimony. Senator Vick asked if Ms. Sloan ever had a friend or acquaintance who was underage stopped by police or arrested because they had tobacco in their possession. Ms. Sloan said she has not seen that happen.

Chairman Siddoway thanked Ms. Sloan for her testimony and referred to her comment about creating a gap between the 18 year olds in high school and those who are younger; he asserted that would stop the flow of cigarettes.

Dusty Wendland stated the reason he was testifying in opposition to this bill was because of his nine-year-old son. Mr. Wendland stated his belief that this bill should not even be discussed because it is the parent's duty to teach their children along with church, community, and numerous others; not government. Young adults should not be stripped of their liberty or dignity.
Senator Hill asked if Mr. Wendland thought there were any products or substances that should be regulated by the government regarding their consumption. Mr. Wendland responded there is an age of adulthood. When children are small, they have no ability to make decisions; they go through the process of graduation from one stage to another to the age of 18. That is the age we picked for them to be legally responsible and punishable as adults. He stated he is not suggesting there should not be regulation, he is suggesting that children graduate to a point of adulthood where they become responsible for their decisions, and then they have to be trusted.

Erin Bennett, Government Relations Director, American Heart Association/American Stroke Association in Idaho, spoke in support of S 1255. Ms. Bennett did not belabor all of the health risks and consequences that come with smoking, instead she discussed conversations she had with people since a similar issue arose during the 2017 Legislative Session; those conversations included high school students who smoke on a regular basis. Ms. Bennett stated she was alarmed by the number of students that have increased their usage of cigarettes and electronic tobacco devices, and the extent tobacco companies go to get young people under 18 addicted to tobacco.

Ms. Bennett talked with student resource officers, teachers, and school administrators who report they are confiscating cigarettes from 12 and 13 year olds. There was an instance where a 19 year old developmentally delayed person was encouraged to buy younger classmates cigarettes. Ms. Bennett said there are many reasons to support this bill; access is not restricted to anyone but those underage students who will have the ability to make that decision when their brain is fully developed.

Senator Winder asked for information regarding vaping versus cigarette smoking. He inquired as to any studies regarding vaping. Ms. Bennett responded there are studies that show the impact on health for vape products including the differences between the chemical flavorings. The FDA has approved these products for food purposes, but they have not been tested for use through a respirator. There are results of studies that have identified "popcorn lung" and the health-related impact.

The Idaho Department of Health & Welfare has seen an increase in the use of vape products by underage kids that go on to become regular smokers of tobacco products. Senator Winder asked if there were any studies that actually show the health impact for electronic cigarettes; if the State is worried about cancer, we are worried about the impact of those products that contain nicotine or other carcinogenic materials. Ms. Bennett said studies have been conducted and she will provide them to Senator Winder.

Dr. Jennifer Shaltz is an internal medicine physician at St. Luke's, the Medical Director of the St. Luke's Tobacco Treatment Program, and the St. Luke's Cardiac and Pulmonary Rehab Program. Dr. Shaltz stated she was also a former U.S. Air Force physician and mother of two teenage daughters. Dr. Shaltz discussed what she sees coming through the tobacco treatment clinic; how people who want to quit smoking but cannot, even when they choose to; she discussed the suffering it causes for the smoker and their family; and the ravages of disease caused by tobacco. Only one in four or one in five who participate in the St. Luke's program can quit for a year; this is consistent with national averages. Dr. Shaltz provided additional statistics on the use of tobacco, the effects of tobacco on health, and how tobacco affects the brains of young people (Attachment 5).

Chairman Siddoway inquired if the chemicals in e-cigarettes are the same level as cigarettes and if those levels of nicotine in an e-cigarette can be modified to
meet the needs of the smoker. Dr. Shaltz answered the nicotine levels in vaping products are the same as in cigarettes.

Vice Chairman Hagedorn stated his understanding that it is not nicotine that causes cancer, it is nicotine that causes the addiction to chemicals within the vaping products. It is those chemicals that cause cancer. He asked if it would be better not to have nicotine at all. Dr. Shaltz replied vape products are made up of toxic substances, but there are no-long term studies on the toxicity of vaping products.

Vice Chairman Hagedorn remarked most people agree tobacco products and vaping is not healthy and causes concern about health damage and increasing healthcare costs. However, this discussion is about a subsection of people that may be more susceptible to the addiction at an earlier age. He inquired how Dr. Shaltz would change the care of this group over the long term. Dr. Shaltz answered that her care would change over the long term when fewer people use tobacco products. Dr. Shaltz pointed out that people get dependent on vaping products. This bill will help get tobacco products away from school children.

Margi Soni stated she is a nurse practitioner in pulmonary medicine and the Associate Medical Director of the Tobacco Treatment Program at St. Luke’s. Ms. Soni talked about her experiences at the clinic and provided information on studies that have been conducted; the most comprehensive being the National Academies of Science Engineering and Medicine that came out in January 2018 (Attachment 6). Most students have no intention of using tobacco. They think vaping is a healthy alternative to the tobacco habit.

Erik Cheney is Vice President/Chief Financial Officer of Gem State Distributors based in Pocatello, a convenience store distributor since 1958. The Company services over 100 retailers within the State. Mr. Cheney described his experience with this company and how they provide over $4 million to Idaho through tobacco taxes. He commented that smoking rates have declined by 60 percent. The law currently in place is working. He stated the law gives young adults the right to choose. Education on the negative effects should be instituted. Mr. Cheney indicated he opposed S 1255.

Rich Faw, General Manager, Capitol Distributing, voiced his opposition to S 1255. Mr. Faw stated Capitol Distributing sells and delivers food, beverages, and tobacco products to over 200 retailers in Idaho. No one supports the sale of tobacco to minors. The controversy is the definition of a minor. An 18 year old has the right to do many things; he elaborated on those actions and the attendant responsibility and accountability. Tobacco is a legal product in Idaho and those adults 18 and older should have the right to choose whether to use this product.

Luke Cavener, Idaho Government Relations Director, American Cancer Society Cancer Action Network, spoke in support of this bill. Mr. Cavener stated some points of interest: this bill only affects three percent of the buying public; Idaho has one of the lowest tobacco tax rates in the country and the lowest of any non-tobacco producing state. The Centers for Disease Control and Prevention has said that vape products are less harmful than a combustible product. Although retailers consistently verify ID cards of purchasers, some underage people do obtain these products.

Senator Winder questioned the viability of putting someone in jail for up to a year for selling a pack of cigarettes. He wondered how Mr. Cavener came to that conclusion. Mr. Cavener explained that he worked with Senator Martin and they tried to mirror penalties and enforcement written in Idaho’s alcohol law. As for imprisonment, the goal was to mirror other laws.
Vice Chairman Hagedorn asked how many citations have been written to minors for possession of tobacco products over the last year. Mr. Cavener said he could not answer exactly, but he could share information provided by student resource officers. Those officers are aware of those students that use tobacco, although the data does not exist. Many people in law enforcement are not involved in arresting any 16 or 17 year old; they look to educate and focus on community policing to put them on the right path.

Vice Chairman Hagedorn stated he is questioning the educational portion that cites either a minor that has tobacco products or someone is not indentifying the purchaser correctly. He inquired about the scope of the fines. Is it a serious attempt to fine someone or is it an attempt to educate? Mr. Cavener answered with any policy there are repercussions for actions. Law enforcement officers must make that determination on a case-by-case basis. The penalties are designed to enforce the law.

Vice Chairman Hagedorn asked if there is a problem with the definition of a minor or is the problem with enforcing the law of illegal use of tobacco products. Are our law enforcement officers writing citations so those students will understand they are breaking the law. Previous testimony indicated 60 percent of students are known to be vaping. Is there a failure to educated students about the law? Mr. Cavener said it is not any one particular problem. Idaho has a very low regulatory environment related to tobacco products. Idaho does need to increase enforcement. Capital resources to law enforcement officers need to be expanded. It should be made more challenging for the 18 year olds to provide tobacco products to those who are younger.

Senator Winder inquired if youth under the age of 18 were allowed to smoke by their parents. Mr. Cavener stated it was his belief one would do the same as would be done in a situation with alcohol. This is not the magic key, this law is about average daily use to lower addiction rate. Senator Winder referred to Section 6 related to penalties in Idaho Code § 39-5705, it is a misdemeanor on the first offense and subject to one year imprisonment. Mr. Cavener explained, in the case of a first violation, the permittee shall be notified of penalties; the second violation results in a $200 fine to the permittee and a $100 fine to the seller pursuant to Idaho Code § 3 a9-5708. Idaho Code § 39-5705 falls under the purview of the courts.

Skip Smyser, testified in opposition to S 1255. Mr. Smyser's main contention was young adults are given the responsibility to serve in the military in faraway places and in all types of situations; even potentially facing death. To diminish what they are asked to do in those situations by saying they are not mature or adult enough to decide whether or not to smoke is wrong. Mr. Smyser applauded those who advocated education instead of changing the law.

Carl Rizzo, represented himself as a provider for tobacco cessation resources and spoke in support of S 1255. Mr. Rizzo stated he provides services to groups of young people ages 14-22 in areas like juvenile detention, Job Corps, and in high schools. As many as 80 percent of the young people he sees voluntarily admit they have used cigarette devises. Mr. Rizzo described what he has seen, the studies he has read, and the issues he encountered as a provider for tobacco cessation.

Senator Stennett asked if he has been successful in altering behavior. Mr. Rizzo stated he has an 80 percent success rate. He also had instances where the success rate was at 20-25 percent. People will quit when they are ready; all he can do is offer them education and foresight as to what will happen to them if they continue.
Chairman Siddoway asked how broad a spectrum is the age group you work with. Mr. Rizzo stated he works for people from 12 years old to 85. The 300 young people, ages 14-22, that he sees during a year tell him they continue to use e-cigarettes because of the taste. Chairman Siddoway asked, if this bill passes, will the supply to the younger kids be stopped or will they simply find another provider. Mr. Rizzo stated, in his opinion, most students receive tobacco products from their siblings, the older sibling will be affected by this bill. He never heard of anyone going out-of-state or using the internet to get tobacco products or e-cigarettes.

Sebastian Griffen, a junior at Nampa High School spoke in support of S 1255 on behalf of the American Heart Association/American Stroke Association of Idaho. Mr. Griffen shared a personal experience that he saw earlier in the week, a senior vaping with two freshman. This happens frequently where someone 18 years or older provides freshmen with some kind of tobacco or vaping products. Mr. Griffen said research shows if someone makes it to 21 without smoking, 98 percent of those people will never use nicotine or tobacco products. He reiterated many of the arguments heard in prior testimony. He asked the Committee to send this bill to the floor with a do pass recommendation.

Senator Hill asked, if the main concern is access in the high schools, could that be accomplished by changing the age to 19 rather than 21. Mr. Griffen stated he thought it would help to keep it out of the high schools, but research shows that students that make it to 21 are 98 percent more likely to never use those products. The objective is to keep tobacco products out of high schools and to keep people from using them until age 21.

Senator Stennett asked if schools were not already prohibiting tobacco use. Mr. Griffen responded in the affirmative. However, those who are 18 still purchase nicotine products and bring them on the school grounds. Senator Stennett asked how this is being regulated if it is prohibited in the schools. Mr. Griffen said, with his experience, it was reported and students were suspended. This not only happens at Nampa High School, but at many other schools as well. Implementing this bill would be an important factor to control tobacco usage.

Senator Winder explained the Committee is given a task to not only address the realities of tobacco abuse and use, but also the way the bills are written. The conversation has centered on one age group sharing with a younger age group, penalties are very light compared to a retailer and a clerk who are doing their job, and could potentially be sent to jail. Senator Winder asked if Mr. Griffen would want one of his friends sent to jail for sharing a cigarette or an e-cigarette. Mr. Griffen stated his opinion that penalties should not be harsh. Education and solutions are the key. He elaborated on what kinds of consequences should be used. It depends on the situation. Those consequences are in place to stop the use of tobacco or nicotine products. Senator Winder thanked Mr. Griffen for testifying.

Chairman Siddoway stated there were no more individuals signed up to testify and asked Senator Martin to close.

Senator Martin deferred to Cory Surber. Ms. Surber thanked the Committee for hearing extensive testimony. Ms. Surber addressed a few issues brought up in testimony. Personal choice and freedom are important and are a key value to the citizens of Idaho. She outlined a variety of reasons how personal choices affect others, how many youth are using nicotine products, the kinds of health issues that result from that use, and the cost.
Ms. Suber addressed the disconnect between tobacco and alcohol policy. Tobacco is the most highly addictive and deadly of the two substances; the objective is to mirror the enforcement of both. Jurisdictions that have implemented this type of policy state there is less than a two percent impact on sales at retailers. The goal is cutting off the supply chain to younger teens. She yielded to Senator Martin.

Senator Martin stated his appreciation for both sides of testimony. He referred to the Attorney General’s letter (Attachment 2) regarding the constitutionality of this proposal. Senator Martin stated military leaders have pledged their support to reduce use across all departments. The goal is to reduce the use of tobacco by all. Senator Martin concluded they are changing the age, the existing statute remains the same.

DISCUSSION: Senator Winder stated he is conflicted on this bill because he has seen the impact in his own family. The issue before the Committee is the bill. The dealer is not the problem, it is the person buying tobacco legally and providing it illegally with minimal penalty for that person. Senator Winder declared a potential conflict of interest pursuant to Senate Rule 39(H).

Senator Stennett said she is opposed to smoking; does not advocate it for anyone, and understands the health risks. She stated her doubt that this will keep cigarettes out of schools as it is already illegal and prevalent in the schools. She agreed education should be stronger. The penalties for violations for persons under the age of 21 is punishable by imprisonment; sending children to prison is not acceptable.

Vice Chairman Hagedorn spoke as a previous smoker who started at 14 and told of his personal experiences. Although he no longer smokes, he said he is still addicted to nicotine – it is a terrible drug. Vice Chairman Hagedorn said we, as a nation, are addicted to the money that comes from tobacco and, until we address that problem, people will be addicted to nicotine. The nation has also decided that age 18 is the time children become adults, have choices, accept responsibilities, and are held accountable for those choices. Vice Chairman Hagedorn emphasized children need to be educated at an early age and older children need to educate one another. Peer pressure is the answer for high school kids.

Senator Buckner-Webb told of her own personal experiences with long-term smoking by family members. She stated she has emotional and intellectual conflicts about this issue. She also has considered that the words "children" and "adult" have been used interchangeably when speaking of smoking and 18 year olds. She made the decision to support this legislation.

Chairman Siddoway shared a story about a person with a strong addiction to tobacco. He pointed out that those tobacco products take away your agency, you do not make decisions you would normally make. This person started smoking at age 14, when he wanted to quit, he could not. He started in high school, just to be cool. He recently died of cancer. If the older teenagers in his school had not had the ability to provide cigarettes to young kids, he probably would never have started smoking. Chairman Siddoway stated his appreciation for bringing this bill and his intention to support it.

Senator Vick stated he started smoking at age 14 and quit at 15 because it seemed dumb and expensive. Senator Vick said he was aware of the consequences of tobacco use. There has been discussion about the developing brain and the kinds of decisions people can make. He stated maybe the age of
maturity is wrong. He outlined the things one can do at 18: marry, jury duty, join the military, and vote, all have long-term consequences. This is not the only decision that has long-term consequences.

The age of 18 may be wrong to be considered an adult; however, as long as that is the age to make other life altering decisions, the age needs to be the same for smoking as well. There are also problems with the penalties. Senator Vick said he resides close to the State of Washington and to an Indian reservation. This bill would unnecessarily penalize businesses. For those reasons, he stated he will be voting against the bill.

Senator Anthon remarked this is one of those interesting bills and topics where all who are involved share the same goal, but disagree about proper policy in an honest way. He stated his respect for all who have spoken both in favor of and against. Senator Anthon added a preface to his comments, both of his grandfathers smoked and died of smoking related illnesses, so he knows the effects of smoking. He stated his desire that no one should ever pick up a cigarette. He reiterated many of the issues that have been brought out in testimony. There is a presumption in the argument that by making something illegal, you solve the problem. From his experience, as someone who has prosecuted crime and as a public defender, he felt that is not true. It can have an impact and does. It is a question of the government's role. Senator Anthon stated he was not ready to support this bill.

**MOTION:** Vice Chairman Hagedorn moved to hold S 1255 in Committee. Senator Stennett seconded the motion. The motion carried by voice vote.

**MINUTES APPROVAL:** The approval of the Minutes of January 29, 2018 and February 2, 2018 was rescheduled.

**ADJOURNMENT:** There being no further business, Chairman Siddoway adjourned the meeting at 10:46 a.m.

Senator Hagedorn
Vice Chair

Twyla Melton
Secretary
February 14, 2018

RE: RS26189 - Self Defense - SUPPORT

Chair Siddoway and Members of the Senate State Affairs Committee,

On behalf of the National Rifle Association, I would like to express our support for RS26189. This important self-defense legislation would provide that a law-abiding person has “no duty to retreat” from an attack if the person is in any place the person has a right to be, and would also codify a legal presumption known as the “Castle Doctrine”. The “Castle Doctrine” simply says that if a criminal breaks into your home, your occupied vehicle or your place of business, you may presume he is there to do bodily harm and you may use force against him.

Idaho’s current self-defense law is found throughout statutes, case law, and jury instructions. RS26189 would consolidate and codify existing law to clearly protect the inherent right of a person to defend themselves. This legislation clarifies that in the exercise of self-defense, a law-abiding citizen may stand their ground and protect themselves or their family anywhere they have a legal right to be. RS26189 also protects the right of a person to defend himself against an intruder who enters the defender’s home or business unlawfully or by force, without the defender having to demonstrate that he reasonably feared that the intruder was about to cause death or great bodily harm. The unlawful or forceful entry is enough to establish a legal presumption that the defender’s fear of serious injury was reasonable—and, therefore, that his defense against the criminal was reasonable as well. This shifts the risk away from the defender—who would otherwise have to consider not just his assailant’s actions, but also his assailant’s motives—and puts that risk where it belongs, on the attacker.

Again I would ask you to support RS26189 to provide clear self-defense protections for the citizens of Idaho. Please feel free to contact me with any questions or to discuss this bill further.

Sincerely,

Keely Hopkins
NRA-ILA State Liaison
February 14, 2018

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Again I would ask you to support RS26189 to provide clear self-defense protections for the citizens of Idaho. Please feel free to contact me with any questions or to discuss this bill further.

Sincerely,

Keely Hopkins
NRA-ILA State Liaison
STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
LAWRENCE G. WASDEN

Via Email and USPS Mail

December 13, 2017

The Honorable Fred S. Martin  
Idaho State Senate  
3672 Tumbleweed Place  
Boise, ID 83713  
fmartin@senate.idaho.gov

Re: DRELB009, Tobacco 21

Dear Senator Martin:

This letter is in response to your inquiry for a legal analysis regarding DRELB009, also known as Tobacco 21. This proposed legislation would amend the Idaho Prevention of Minors’ Access to Tobacco Act, title 39, chapter 57, Idaho Code (Minors’ Access Act). As discussed below, I do not perceive any constitutional infirmity that would endanger the legality of the proposed legislation. Nor do I perceive any other legal issue with the bill.

DRELB009 would amend the Minors’ Access Act by raising the legal smoking and tobacco use age in Idaho to 21. Various provisions in the Act that relate to this would accordingly be changed to reflect this new age requirement. We note that a number of States have passed similar legislation, including Hawaii, New Jersey, California, Maine, and Oregon. Over 200 communities across the country have also raised the smoking age within their jurisdiction to 21.

There is nothing in the proposed legislation that raises any constitutional concerns. The Equal Protection Clauses of the United States and Idaho Constitutions embrace the principle that all persons in like circumstances should receive the same benefits and burdens of the law. United States Constitution Amend. XIV § 1; Idaho Constitution, art. 1, § 2.

Under both federal and state law, in analyzing an equal protection claim, the first step is to identify the statutory classification under attack. The next step is to determine the proper standard by which the legislative classification is to be reviewed. Finally, the last step is to determine whether the appropriate standard has been satisfied. State, Department of Health and Welfare v. Reid, 124 Idaho 908, 912, 865 P.2d 999, 1003 (1993).
The classification that appears subject to review is the age by which a person may smoke, purchase or sell tobacco products.

There are three standards of review used in equal protection analysis. Where the classification is based upon a suspect classification, such as nationality or race, or involves a fundamental right, the courts use a “strict-scrutiny” test. State v. Missamore, 119 Idaho 27, 33, 803 P.2d 528, 534 (1990). Courts use the “means focus” test where the classification “is discriminatory on its face and clearly bears no relationship to the statute’s declared purpose.” State v. Avelar, 129 Idaho 700, 703, 931 P.2d 1218, 1221 (1997). The “rational basis” test applies to all other situations. The rational basis test is specifically applicable where the classification statute “deals with economic matters or matters of social welfare.” Olsen v. J.A. Freeman Co., 117 Idaho 706, 710-11, 791 P.2d 1285, 1289-90 (1990).

Under the rational basis test, the statutory classification must bear a rational relationship to legitimate government interests. Avelar, 129 Idaho at 703, 931 P.2d at 1221. Courts uphold statutes under this test if “any conceivable set of facts will support the finding of a rational relationship.” Id. Stated another way, under the rational basis test “equal protection is offended only if classifications are based solely on reasons totally unrelated to the pursuit of state’s goals and only if no grounds can be advanced to justify those goals.” Olsen, 117 Idaho at 711, 791 P.2d at 1290. Idaho’s age for when a person can smoke should be reviewed under the rational basis statute. Smoking is neither a fundamental right, nor a classification that has ever been assigned to a strict scrutiny or intermediate standard of review.

Idaho has a concededly legitimate government interest in protecting the health of its citizens and expenditures related to the public health, and has done so, in part, by establishing a current statutory age of 18 before a person is allowed to smoke. This current age limit is rationally based and there is nothing constitutionally different about raising that age to 21. In short there is no equal protection problem in raising the age to 21.

There is likewise no Commerce Clause concern. While the Commerce Clause generally is invoked as authority for federal legislation, the so-called dormant Commerce Clause limits the states’ ability to enact legislation that adversely affects interstate commerce. See Hughes v. Oklahoma, 441 U.S. 322 (1979).

State legislation may violate the dormant Commerce Clause if it either (1) facially discriminates in favor of intrastate interests or (2) although facially neutral, has the “practical effect” of directly controlling “commerce occurring wholly outside the State’s borders.” Healy v. Beer Inst., Inc., 491 U.S. 324, 336 (1989). State regulation that is evenhanded passes constitutional muster even if it imposes an incidental burden on interstate commerce, unless it can be shown that the burden is “clearly excessive” when compared to the local benefits. Oregon Waste Sys., Inc. v. Dep’t of Envtl. Quality, 511 U.S. 93, 99 (1994).

DRELB009 does not facially discriminate in favor of intrastate commerce, nor does it have the practical effect of directly controlling commerce occurring wholly outside Idaho’s borders. The proposed bill only affect the age by which persons in Idaho may purchase, sell, or use tobacco products. There are thus no Commerce Clause issues.
There is also no valid Due Process Clause claim either. In deciding whether due process has been denied, the court must engage in a two-step analysis. First, it must determine whether the interest claimed is protected. This is a threshold question: “Only after finding the deprivation of a protected interest do we look to see if the State’s procedures comport with due process.” *American Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 59 (1999). A protected interest exists “where there is a legitimate claim or entitlement to the asserted benefit under either state or federal law.” *Bradbury v. Idaho Judicial Council*, 136 Idaho 63, 72, 28 P.3d 1006, 1015 (2001). The court must examine relevant statutes to determine whether the interest in question is protected. *Id.*, 136 Idaho at 73, 28 P.3d at 1016.

Second, if a protected interest is found, the court must determine what process is due. *Id.*, (internal citation omitted). It will look to both statutory and constitutional procedural protections. “(D)ue process is flexible and calls for such procedural protections as the particular situation demands.” *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). Here there is no protected interest, statutory or constitutional, that protects a smoker’s age. We thus do not need to proceed to the second part of the inquiry regarding what sort of process or protection is due, although I will note that any person opposed to DRELB009 will have a full and fair opportunity to communicate and present those views to the Legislature in a variety of different ways. In short, though, there is no due process concern.

In conclusion, there are no constitutional infirmities with Tobacco 21, as set forth in DRELB009.

Very truly yours,

BRETT T. DELANGE
Deputy Attorney General
Consumer Protection Division

BTD/tt
Tobacco 21 Testimony – SB 1255
Corey Surber, Saint Alphonsus

Chairman Siddoway and Members of the Committee:

- My name is Corey Surber, and I serve as Director of Advocacy for Saint Alphonsus

- I appreciate the opportunity to come before you today to support Senate Bill 1255, a policy intended to decrease youth initiation of tobacco use, which will save thousands of lives and millions in healthcare costs into the future.

- Saint Alphonsus and other Tobacco 21 Coalition members statewide support SB 1255 for the primary reasons that:

  o Tobacco use is the leading cause of preventable disease and premature death in the U.S., and one of the largest drivers of healthcare costs. According to the commissioner of the FDA, "Cigarettes are the only legal consumer product that, when used as intended, will kill half of all long-term users."

  o While the health effects of tobacco use are not typically seen in young people, 95% of current adult smokers start before age 21

  o It is between the ages of 18 and 21 that experimental use transitions to regular daily use

  o Each year 700 Idaho youth become new regular daily smokers, and 1/3 will likely die prematurely from this addiction. The Idaho tobacco use rate for young adults age 18-24 is 13.8%.

  o What is truly concerning is that 25% of Idaho high schoolers say they have used electronic cigarettes in the past 30 days, and these youth are 3x more likely to end up using tobacco products.
• About 30,000 Idaho kids now under age 18 will ultimately die prematurely if we continue on our current course

• Cost due to tobacco-related illness: $508 M each year in Idaho, or $640 for each Idaho household

• Why Raise the Age?
  o 2015 report by Institute of Medicine concluded raising the age will have a substantial positive impact on public health and save lives.

  ▪ Predicts raising the age will, over time, reduce the smoking rate by about 12% and smoking-related deaths by 10%, which translates into 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost.

  ▪ Tobacco industry documents state that they know if they do not capture new users by their early 20s, they never will.

  ▪ Adolescents are particularly vulnerable to the addictive effects of nicotine.

  ▪ A strong majority of Idahoans support raising the age, and when poll respondents were asked to pick between the freedom of choice vs. reducing costs and saving lives – 60% of them sided with raising the age.

• Tobacco 21 Effectiveness Data:

  o State policies in NJ, HI, CA, OR, and ME are all too recent to have effectiveness data at the state level.

  o Multiple examples of effectiveness at municipal level, including NY, Chicago – although they implemented multiple strategies simultaneously so difficult to tease apart direct attributable impact
In 2005, Needham, Massachusetts implemented the law to raise the tobacco sales age to 21. They were the first town in the country to do so, and 4 years after the legislation was implemented smoking in Needham high school decreased by 47%. In 2006, before the legislation was fully enforced, Needham had a 13% smoking rate compared to a 15% in neighboring communities. In 2010, the youth smoking rate in Needham decreased to 6.7%, while the surrounding communities' rate only decreased to 12.4%.

With that, I would like to thank Senator Fred Martin for bringing this bill forward, and I am happy to stand for any questions the committee may have.
February 13, 2018

- I am Tom Dale, County Commissioner for Canyon County, and Chairman of the Board of Trustees and President of the Idaho Association of District Boards of Health.
- In June 2017, the Idaho Association of District Boards of Health passed a resolution that supports raising the minimum age of legal access and use of tobacco products, including electronic vapor products, in Idaho to 21 years of age.
- It is important to decrease the access to high school aged “children” from tobacco that they can easily get from adult high school students.
- Here is a quote from the Republican Senator from Maine who wrote their bill. This is from a news story: Senator Paul Davis, a Republican who wrote the bill, said the Governor’s remarks showed that he had missed the point of the legislation. “People who join the military don’t have 15-year-old kids following them around and being impressed by their actions,” Mr. Davis told reporters after the Senate’s vote on Wednesday. “It’s about the availability of cigarettes in schools.”
- The public health districts spend $750,000 per year in millennium fund dollars to try to get people to quit a habit they should have never started. This is a drop in the bucket compared to what Idaho spends on healthcare for tobacco related illness: more than $508 million annually.
- Although the subject is not well researched because raising the age is relatively new, I think this study from Needham, Mass. is encouraging: "In 2005, Needham, Massachusetts implemented the law to raise the tobacco sales age to 21. They were the first town in the country to do so, and 4 years after the legislation was implemented smoking in Needham high school decreased by 47%. In 2006, before the legislation was fully enforced, Needham had a 13% smoking rate compared to a 15% rate in neighboring communities. In 2010, the youth smoking rate in Needham decreased to 6.7%, while the surrounding communities rate only decreased to 12.4%.” Published in the American Journal of Public Health: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4202948/

XXX

In conclusion, on behalf of the Idaho Association of District Boards of Health, I ask you to support S 1255.
WHEREAS, Smoking-caused health costs in Idaho total more than $508 million per year, including more than $100.5 million in state and federal Medicaid expenditures, and raising the age of legal access to tobacco products to age 21 will likely decrease overall tobacco use rates, which in turn will likely lead to reduced future tobacco-related health care costs, and

WHEREAS, The tobacco industry aggressively markets and promotes its products to continue recruiting young adults as new consumers. Despite legal settlements and laws, the tobacco companies still spend $9.6 billion per year to market their deadly and addictive products, and they continue to entice and addict America's youth. According to the U.S. Surgeon General, the more young people are exposed to cigarette advertising and promotional activities, the more likely they are to smoke. More than 80% of underage smokers choose brands from among the top three most heavily advertised, and

WHEREAS, The Institute of Medicine concluded that raising the age of legal access to tobacco products to 21 years of age will likely prevent or delay initiation of tobacco use by adolescents and young adults, immediately improve the health of adolescents and young adults, improve maternal, fetal, and infant health outcomes, and substantially reduce smoking prevalence and smoking-related mortality over time. The Institute of Medicine also predicted that raising the age now to 21 nationwide would result in approximately 249,000 fewer premature deaths, 45,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for those born between 2000 and 2019.

THEREFORE, BE IT RESOLVED, that the Idaho Association of Boards of Health supports raising the minimum age of legal access and use of tobacco products, including electronic vapor products, in Idaho to 21 years of age. District public health staff will actively engage in local and statewide efforts to support this public health policy.

16-03: Resolution to Support Raising the Minimum Age of Legal Access and Use of Tobacco Products in Idaho to Age 21

RESOLUTION TO SUPPORT RAISING THE MINIMUM AGE OF LEGAL ACCESS AND USE OF TOBACCO PRODUCTS IN IDAHO TO AGE 21

WHEREAS, Tobacco remains the leading cause of preventable disease and premature death in the U.S., and one of the largest drivers of health care costs¹, and

WHEREAS, Each year approximately 1,800 Idahoans die from tobacco use and 1,100 Idaho youth become new regular, daily smokers, of whom one-third will die prematurely because of this addiction², and

WHEREAS, 95% of current adult smokers began using tobacco before age 21, and the ages of 18 to 21 are a critical period when many experimental smokers transition to regular, daily use³, and

WHEREAS, Adolescents are more likely to obtain cigarettes from social sources than through commercial transactions, and youth who reported receiving offers of cigarettes from friends were more likely to initiate smoking and progress to experimentation⁴. Raising the legal age of access to 21 would reduce the likelihood that young people would have access to tobacco products through social sources, and

WHEREAS, A growing number of youth and adults are using electronic vapor products, also known as e-cigarettes or electronic nicotine delivery systems (ENDS), which provide a way to deliver the addictive nicotine substance without burning tobacco. In Idaho, e-cigarettes are the most commonly used "tobacco" product among Idaho students: 24.8% of students used an electronic vapor product in the past 30 days and nearly half of all Idaho high school students have used an electronic vapor product at least once during their lifetime⁵, and

WHEREAS, the American Academy of Pediatrics now strongly recommends the minimum age to purchase tobacco products, including e-cigarettes, should be increased to age 21 nationwide⁶, and

WHEREAS, the U.S. Army Public Health Command says soldiers who smoke are less combat ready and take longer to heal and the U.S. Department of Defense is taking steps to ban all tobacco sales on military bases⁷, and

WHEREAS, 131 cities in nine states, and the State of Hawaii have already raised the minimum age of legal access to tobacco products, and several other states are currently considering legislation to do so, and
Jennifer T. Shalz, MD Testimony on Senate Bill 1255 (Tobacco 21)
February 14, 2018

Mr. Chairman and members of the committee, my name is Dr. Jennifer Shalz. I am an internal medicine physician and the Medical Director of the St. Luke's Tobacco Treatment Program and the St. Luke’s Cardiopulmonary Rehab Program.

I know that there are concerns about the concept of freedom of choice when it comes to using recreational substances. However, I think most reasonable people would agree that addiction to a substance removes the freedom of choice. Substance addiction rules your life—there is no freedom in that.

I witness every day patients of mine facing the ravages of disease caused by tobacco because of their nicotine addiction. These people have progressive disability causing unbelievable suffering for them and their families not to mention dealing with the specter of premature death. Unfortunately, many of them can still not quit tobacco even when they choose to quit and when we give them the scientifically established maximal support that we have to quit through our Tobacco Treatment Program. Our quit rates are consistent with national quit rates. Only 1 in 5 to 1 in 4 tobacco users who are actively involved in our program can quit for a year. This is not their freedom of choice. This is their addiction.

I am here to address the specific issue of nicotine addiction based on my experience and knowledge because many are unaware of how severely addictive it is especially for teens and young adults. It is not widely known or appreciated that among substances, nicotine is the drug with the highest dependency effect: higher than heroin, cocaine, alcohol, and marijuana. In fact, the degree of dependency goes in that order: nicotine first then heroin, cocaine, alcohol, and marijuana.

Dependency refers to how difficult it is for the user to quit, the relapse rate, and the percentage of people who are just users who become dependent. In fact, 68% of nicotine users vs only 23% of alcohol users will become dependent at some time in their life. Bottom-line, amongst all of these substances, nicotine is not only the one most likely to cause dependency but also the hardest to quit. (Jack Henningfield of National Institute on Drug Abuse and Neal Benowitz of UCSF 1994 and Catalina Lopez-Quintero et al; Drug and Alcohol Dependence, 2011.)

Let’s remember that it is not the nicotine which is itself the most harmful for health outcomes but the tobacco that contains the nicotine. The nicotine is the vehicle for lifelong dependency on tobacco.

Adolescents who use nicotine containing products in the form of tobacco or e cigarettes are highly likely to become lifelong tobacco users because of the effects of early exposure to nicotine on the developing brain. Brain development continues until age 25 and adolescent brains are uniquely vulnerable to becoming addicted to nicotine because there is evidence that their brains are very sensitive to the rewarding effects of nicotine which causes the addiction to occur. This sensitivity to reward from nicotine decreases with age such that if someone is not a regular tobacco user by age 25 years old then it is highly unlikely they will become one.

So, when there is an argument that we are taking away freedom of choice by lessening (certainly impossible to eliminate) the chances our adolescents will be readily exposed to nicotine containing
products in the form of tobacco and e cigarettes, it does not hold water in the face of addiction. Addiction removes freedom of choice.

We want to discourage youth from making decisions to initiate nicotine containing products that they will later regret b/c they become victims of the vise grip of addiction with all of its associated disability, suffering, and premature death.

Jennifer T. Shalz, M.D.
Medical Director
St. Luke’s Heart Health and Rehabilitation
3525 East Louise Dr. Suite 500
Meridian, ID 83642
Tel 208-706-7050
Fax 208-706-7059
shalzj@slhs.org
Mr. Chairman and members of the Committee,

My name is Margi Soni. I am a Nurse Practitioner in Pulmonary Medicine, as well as the associate medical director of the Tobacco Treatment Program at St. Luke’s.

My clinic days are filled with current and former smokers. Their lives are hard. They are barely able to breathe, carrying oxygen tanks with them everywhere, pushing walkers. Most of them have multiple medical problems from smoking, on top of their lung disease. My patients are miserable. And many of them are embarrassed. They say, “I’m not dumb, I know I’m killing myself. I can’t stop”. Even as they work with me to quit, they tell me, “I wish I had never started. I never thought this would be my life”. Every single one of them started smoking before age 21.

Teen smoking rates are down a bit in the past few years, mostly due to changing social acceptance of smoking. And because kids have moved on to vaping. One in 4 kids in high school here in Idaho are now using e-cigarettes. 25%! (https://www.sde.idaho.gov/student-engagement/school-health/files/youth/2015-Fact-Sheets.pdf)

The head of the FDA said “Nicotine addiction begins when most tobacco users are teen-agers, so let's call this what it really is: a pediatric disease.” That was in 1995. Kids smoke and vape in the shadows, becoming addicted before they realize what has happened. They become the adults we see die of smoking related diseases. (http://www.nytimes.com/1995/03/09/us/fda-head-calls-smoking-a-pediatric-disease.html)

The National Academies of Science, Engineering, and Medicine came out with a report this past January about e-cigarettes. Here’s what they say. (This is the most complete study on e-cigarettes to date, by the way).

1. There is substantial evidence that e-cigarette use increases the risk of smoking in youth and young adults.

2. There is substantial evidence that e-cigarette use results in dependence on e-cigarettes due to the presence of nicotine, like what Dr Shalz was talking about.

3. There is conclusive evidence that in addition to nicotine, most e-cigarette products contain numerous potentially toxic substances that are being inhaled.

4. There is substantial evidence that chemicals present in e-cigarettes can cause physical damage to the body (increased risk of pneumonia, bronchitis in kids, etc.) but the long term exposure risks are still being studied. (Vaping is relatively new and diseases take a long time to develop) (https://www.nap.edu/resource/24952/012318ecigaretteConclusionsbyOutcome.pdf)

Vaping is “cool”, and has re-normalized smoking in middle and high school with vape tricks like smoke rings and games around vaping. In addition to these games, "dripping," (a practice in which e-liquid is dripped directly onto the metal coil) exposes users to higher levels of nicotine and other toxins, according to a recent study. Kids are being kids. They aren’t JUST vaping. They are doing stupid teen things, experimenting, pushing the limits. (E-Cigarettes and “Dripping” Among High-School Youth. Suchitra Krishnan-Sarin, PhD,a Meghan Morean, PhD,b Grace Kong, PhD,a Krysten W. Bold, PhD,a Deepa R. Camenga, MD,c Dana A. Cavallo, PhD,a Patricia Simon, PhD,a Ran Wu, MSa)

E-cigs are marketed directly to young kids with safe sounding flavors, also called “juice”, that include Gummy Bear, Bubble Gum, Wonka Sweet Tarts, Cotton Candy, and others. Sweeter flavors have been
associated with higher levels of abuse by youth; youth who the same studies show will go on to become smokers. E-cigarettes are made in the shapes of ink pens and USB chargers to hide them from adult use, so underage kids can vape without being caught.

(https://www.nap.edu/resource/24952/012318ecigaretteConclusionsbyOutcome.pdf)

Most kids who vape now have never used tobacco, and have no intention of becoming cigarette smokers. They KNOW smoking is bad for them. They are vaping as a “healthy alternative” to an addiction they don’t (yet) have. This bring us back to nicotine. Nicotine in e-cigarettes get kids hooked on the drug, which turns into a smoking habit. They are not mentally equipped before age 21 to fully resist social pressures and their own adolescent brains, either in the form of regular cigarettes or e-cigs. Raising the minimum legal age of all nicotine products to 21 would prevent addiction to tobacco and would keep these kids from becoming my patients.

Alcohol & Tobacco don't have the same addictive potential in adolescent brains.

I am deeply saddened to hear the argument that loss of money is more important than loss of life.

I asked my 14 yr old daughter how her friends get their nicotine, she replied in a millisecond, 18 yr olds who can legally smoke.
Idaho Legislation

This legislation would raise the legal sale age for tobacco products and electronic cigarettes in Idaho from 18 to 21 years of age. It would align tobacco product sales with the current law, penalties and retail exceptions for alcohol sales.

Raising the age in Idaho shows a commitment to removing the risk of addiction and illness caused by tobacco and e-cigarette products to Idaho’s youth and residents, and would decrease the burden of tobacco-related illness and health care costs to the citizens of Idaho.

- The Institute of Medicine concluded that raising the tobacco sale age from 18 to 21 nationwide could save 249,000 people from dying premature deaths and 45,000 fewer lung cancer deaths.¹
- 95 percent of current smokers report that they started using tobacco before 21.²
- Each year 700 Idaho youth become new regular daily smokers, and 1/3 will die prematurely due to this addiction.³
- Smoking-related health care costs directly caused by smoking cost Idaho $508 million dollars a year, or $640 per household.⁴

Current Idaho Statute – Idaho Prevention of Minors’ Access to Tobacco Act (Title 39, Chapter 57) already addresses the following:

- Applies to tobacco and electronic cigarette (e-cigarette) products
- Defines what constitutes possession, distribution and use
- Outlines penalties for an individual’s first and subsequent violations
- Outlines permitting of tobacco product retailers, and penalties for first and subsequent violations

Tobacco 21 Legislation would amend the existing law to:

- Change the legal age of tobacco possession from 18 to 21
- Change references from ‘minor’ to ‘youth’ or ‘persons under the age of 21 years’
- Add in retail exception for those employees 18 to 20 years of age
- Add in retail clarification for employees under 18
- Add in retail signage update to include reference to e-cigarettes

Tobacco 21 Idaho
Key Messages

Addiction & Health
- Each year 700 Idaho youth become new regular daily smokers, of whom 1/3 will die prematurely due to this addiction.
- About 95 percent of adult smokers start before the age of 21.
- Cigarettes today are engineered to addict.
- Cigarettes are the only legal consumer product that, when used as intended, will kill half of all long-term users.
- If a person can make it to their 21st birthday without becoming addicted to tobacco, they are much more likely to live their entire lives tobacco-free.

Costs
- In Idaho, healthcare costs caused by tobacco total $508 million per year.
- Idaho’s leaders have the opportunity in front of them to decrease the burden of tobacco-related illness and healthcare costs and improve the health of young Idahoans.
- Tobacco is the driving cause of preventable death and disease in Idaho, claiming 1,800 lives per year. Raising the tobacco sale age to 21 as part of a comprehensive tobacco control strategy has the potential to save lives and health care costs of Idahoans.

Societal impact
- Tobacco is bad for military preparedness. The U.S. Military recognizes the negative impact tobacco has on troop readiness and soldiers’ health and has actively taken steps to reduce tobacco use.
- The majority of Idahoans – over 60% – support raising the legal sale age for tobacco products, including e-cigarettes.

Generational
- Idaho’s teens and young adults are tired of being the targets of Big Tobacco. According to a March 2015 Institute of Medicine report, raising the national minimum legal sale age to 21 is predicted to reduce smoking prevalence by about 12 percent and smoking-related deaths by nearly 10 percent for future generations.
- About 30,000 Idaho kids under age 18 will die prematurely if we continue on our current course.
- Raising the age will help keep tobacco out of high schools, where younger teens can obtain tobacco products from 18-year-olds.
RAISING THE TOBACCO SALE AGE
Idaho Supported

Idaho has the opportunity to prevent premature deaths, lung cancer, and future healthcare costs by raising the tobacco sale age to 21. Idaho residents have spoken and shown support for passing this life-saving legislation.

THE PROBLEM

1,800 adults die in Idaho each year from their own smoking

$508 M spent annually on health care costs attributed to tobacco use in Idaho

55.9% of Idaho high school seniors have used e-cigarettes

78% of Idahoans are concerned about smoking and other tobacco use among young people in Idaho

NEARLY 1 IN 3
Idaho high school students use tobacco regularly, mostly through e-cigarettes

IDAHOANS SUPPORT RAISING THE AGE

Opposed

In Favor

59% in favor

Across age and party demographics, the majority of Idaho likely voters surveyed were in favor of raising the legal tobacco sale age to 21 in Idaho.

Top 4 Reasons Idahoans Support Raising the Age

1. 18 is too young to make that decision, when their minds are still developing
2. Tobacco is dangerous to health
3. Deter and prevent youth from starting to smoke
4. Minimize the use among teens and make it harder for them to get

Sources:
2. "Re: Why are teenagers buying cigarettes?
AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, February 16, 2018

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
<th>PRESENTER</th>
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<tbody>
<tr>
<td>GUBERNATORIAL</td>
<td>The appointment of Irving Littman to the Idaho Endowment Fund Investment Board.</td>
<td>Irving Littman</td>
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<tr>
<td>APPOINTMENT:</td>
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<td>S 1274</td>
<td>RELATING TO PUBLIC RECORDS to designate a custodian, define types of information not exempt from release, and exempt important security information from disclosure.</td>
<td>Senator Souza</td>
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<td>MINUTES APPROVAL:</td>
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<tr>
<td>January 29, 2018</td>
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<td>Senators Vick and Lodge</td>
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<td>February 2, 2018</td>
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<td>PAGE GRADUATION:</td>
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<tr>
<td>The graduation of Page Lyndi Loveland.</td>
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<td>Chairman Siddoway</td>
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</tbody>
</table>

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
e-mail: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 16, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, and Stennett
ABSENT/ EXCUSED: Senator Buckner-Webb
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 Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

GUBERNATORIAL APPOINTMENT: The appointment of Irving Littman to the Idaho Endowment Fund Investment Board (EFIB).

Chairman Siddoway welcomed Irving Littman to the Committee. He requested information about the Board and Mr. Littman's responsibilities on the EFIB.

Irving Littman stated he was appointed to the EFIB last spring; he expressed his pleasure at the opportunity to be involved. The EFIB is connected to the Idaho State Land Board of Commissioners and oversees the management of the monetary assets related to the endowment fund. Mr. Littman explained that he came to Idaho 50 years ago, worked at Boise Cascade Corporation (BCC), and retired as Vice President and Treasurer. He has been involved in finance and related activities throughout his career. He was raised in Colorado and has a Bachelor of Science degree from University of Colorado, College of Engineering and Applied Science. He also has a Master of Business Administration from the University of Chicago, Booth School of Business.

Senator Vick asked for information on the Cuban Electric Company. Mr. Littman answered in 1969, BCC merged with Electric Bond and Share Company; the name was changed to EBASCO Industries, Inc.(EBASCO). EBASCO was once the largest utility holding company in the world. They created Idaho Power and others. EBASCO was also the holder of a majority of electrical power operating assets in Latin America; the biggest was Cuban Electric Company until it was nationalized in 1960. Cuban Electric Company remained on EBASCO's books when EBASCO became a subsidiary of BCC. Mr. Littman stated he continues to serve as a Director of the Cuban Electric Company, which is currently a subsidiary of Office Depot. There is a claim against the government of Cuba for expropriation and some monetary assets are held in trust.

Vice Chairman Hagedorn thanked Mr. Littman for his service. Vice Chairman Hagedorn inquired as to Mr. Littman's view of what he has learned about the EFIB and areas that could be improved. Mr. Littman responded, in modern business, there is no such thing as not being able to improve. Earlier this week, the EFIB altered the allocation within the endowment fund. In recent years, the performance of the endowment fund has been among the best in the country. The EFIB is one of very few long-term investors. There will be exposure to some volatility, but over the long-term, value will be added for the beneficiaries.
Chairman Siddoway inquired if Mr. Littman sought this appointment or was he solicited. Mr. Littman answered that he was solicited but expressed his interest to be solicited.

Chairman Siddoway thanked Mr. Littman for appearing before the Committee and advised him that the vote would occur at the next scheduled meeting.

S 1274

RELATING TO PUBLIC RECORDS to designate a custodian, define types of information not exempt from release, and exempt important security information from disclosure.

Senator Mary Souza, District 4, stated S 1274 makes three small but important changes to the current public records request code. The changes include:

- the designation of a custodian within each agency or body for public records requests;
- an update of the types of compensation information available upon public request (Attachment 1-p.9); and
- the addition of social security numbers and driver’s license numbers to information exempt from public disclosure.

Senator Souza stated that one of the counties asked if there could be a designated custodian in each department. Senator Souza said the question was referred to the Office of the Attorney General whose response indicated that the language does not preclude a department from designating its own public records request custodian. This is according to the sections in Idaho Code where a county, city, or any agency is defined. Senator Souza stated her belief that those departments are agencies of the city or county and, thus, each department can have a custodian.

Vice Chairman Hagedorn referred to page 7, line 45 of the bill. He said it appears the agencies are limited to one person as a designated custodian.

Senator Souza responded that it does not preclude an agency from having more than one; it does require them to have at least one. They can also designate one for each department, along with alternates.

Senator Hill noted that in subsection (3) on the first page, a definition section has been written as a directive. He addressed the specifics related to the wording. Senator Hill assured Senator Souza she was not to blame, it was the way the bill was drafted. Senator Souza stated she would agree to sending the bill to the 14th Order to make the appropriate changes. Senator Hill outlined three options: 1.) send the bill to the amending order; 2.) hold the bill in Committee until a date certain; or 3.) send the bill to the floor with a do pass recommendation. Senator Hill said he probably could not support number three, but not because of the intent of the bill.

MOTION:

Senator Hill moved to send S 1274 to the 14th Order for possible amendment. Senator Winder seconded the motion.

Senator Anthon thanked Senator Souza for this legislation. He said he practices as a city attorney. It is common sense to exclude social security numbers and driver’s license numbers from a public records request. He applauded this bill.

TESTIMONY:

Skip Smyser identified himself as an attorney and lobbyist in Boise representing the Idaho Press Club in support of this legislation. He stated S 1274 adds to the openness and transparency in government and explained he views this as good legislation. Mr. Smyser suggested they may have some appropriate language that could apply to the definition segment of the bill in question.

Motion carried by voice vote.
Chairman Siddoway called Ms. Loveland to the podium. Lyndi Loveland introduced herself as a Senate Page for the First Half of the Second Regular Session of the Sixty-fourth Idaho Legislature. Chairman Siddoway asked Ms. Loveland to tell the Committee of her experience; what she learned while at the Capitol, as well as what was the most surprising, and what disappointed her.

Ms. Loveland responded that she observed the atmosphere reflected a great deal of humility. She referred to the interaction between the Democrats and Republicans and how well everyone gets along. The legislators and staff were very nice to the pages and to one another. Everyone was considerate and patient while the pages learned their responsibilities. She expressed her gratitude for the opportunity to see how Idaho politics work. Ms. Loveland explained the difference between what she thought would happen and really happened. She stated she had learned much from her experience. The most disappointing thing was that she had to leave.

Chairman Siddoway asked what her plans were for the near future. Ms. Loveland answered that she has completely changed her plans over the last six weeks. She will be doing some college tours in northern Idaho before making her final decision about where she wants to go to school. She plans to work in Alaska during the summer. Upon her return, she will start CNA classes.

Chairman Siddoway presented Ms. Loveland with a gift from the Committee as well as a letter signed by the Committee members. He also provided a letter of recommendation signed by Chairman Siddoway. Chairman Siddoway thanked Ms. Loveland for her service to the Committee.

Senator Winder asked what Ms. Loveland would be doing in Ketchikan. Ms. Loveland responded that she would be doing housekeeping or office work at a resort.

There being no further business, Chairman Siddoway adjourned the meeting at 8:30 a.m.

____________________________________   ______________________________________
Senator Siddoway                           Twyla Melton
Chair                                     Secretary
IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

JOYCE BINGHAM,                
Plaintiff,

v.

BLACKFOOT SCHOOL DISTRICT No. 55,
Defendant/Respondent.

THE POST COMPANY, INC. dba The Post Register,
Intervenor/Petitioner.

Case No. CV-2012-0002123

JUDGMENT

Hon. David C. Nye

On December 7, 2012, this Court entered a Decision in favor of Plaintiff Joyce Bingham and Intervenor/Petitioner The Post Company, Inc. dba The Post Register and against Defendant/Respondent Blackfoot School District No. 55. Now, this Court enters judgment in favor of Bingham and the Post Register and against the School District. The District must provide the requested records under the Idaho Public Records Act. Costs and attorney fees, if any, will be decided pursuant to Idaho statutes and rules following the submission of proper documentation. The parties have 42 days to appeal the decision.

IT IS SO ORDERED.


DAVID C. NYE
District Judge
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of December, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Jared M. Harris
BAKER & HARRIS
266 West Bridge Street
Blackfoot, Idaho 83221

☐ U.S. Mail
☐ Hand Deliver
☒ Fax: (208)236-7288
☑ Email:

Dale W. Storer
HOLDEN KIDWELL HAHN & CRAPO, PLLC
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, ID 83405

☐ U.S. Mail
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☒ Fax:
☑ Email:

Steven J. Wright
WRIGHT & WAYMENT, PLLC
477 Shoup Avenue, Suite 109
P.O. Box 50578
Idaho Falls, ID 83405

☐ U.S. Mail
☐ Hand Deliver
☒ Fax:
☑ Email:

[Signature]
Deputy Clerk

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Judgment
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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

JOYCE BINGHAM, Plaintiff,

v.

BLACKFOOT SCHOOL DISTRICT No. 55, Defendant/Respondent.

THE POST COMPANY, INC. dba The Post Register, Intervenor/Petitioner.

Case No. CV-2012-0002123

DECISION REGARDING DISCLOSURE OF RECORDS

Hon. David C. Nye


Both Bingham’s Complaint and the Post Register’s Petition came on for hearing on November 30, 2012. Jared Harris appeared with and in behalf of Joyce Bingham. Steven Wright appeared in behalf of the Post Register. Dale Storer appeared in behalf of the School District, along with the interim
superintendent Chad Struhs. The Court heard oral argument from all counsel, received the July 2, 2012 contract for an in camera inspection, and took the matter under advisement. Now, the Court issues this decision.

BACKGROUND

The parties acknowledge that this is a case under the Idaho Public Records Act (the “Act”).¹ The Act allows public examination of government records to ensure the government’s activities are transparent to the public it represents and to facilitate public scrutiny of the conduct of public officers. The clear purpose of the Act is to open the doors of government to public scrutiny – to prevent the government from secreting its decision-making activities from the public, on whose behalf it has a duty to act. Yet, everything about this case smacks of a public agency trying to hide its decision-making from the public.

In the Minutes of the Board of Trustees’ Special Meeting held on April 24, 2012, it shows that the Board recessed into executive session to “consider hiring a public officer, employee, staff member or individual agent.”² In addition to the Board members, Superintendent Scott L. Crane and Deputy Clerk Margaret Condor attended the executive session. The Board’s minutes for the executive session show “that the agreement between the board and Employee B-2012 has been executed.”³ The minutes do not identify the identity of Employee B-2012. Immediately after the Board came out of the executive session and back into the Special Meeting, Superintendent Scott L. Crane “in other business” announced his retirement.⁴

¹ I.C. § 9-337 to I.C. § 9-347. See also, Bingham’s Amended Complaint, pg. 4, Prayer for Relief ¶ 2; Post Register’s Brief in Support of Petition for Public Writings Pursuant to Idaho Code § 9-343, pg. 2; and the School District’s Memorandum Brief in Response to Amended Order to Show Cause, pg. 1.
² See, Plaintiff’s Exhibit G, which was substituted at the hearing for Ex. H attached to Bingham’s Amended Complaint.
³ Id.
⁴ Id.
In its Fiscal Year 2013 Expenditure Summary for the month of July 2012, the School District showed a payment on July 2, 2012, to “Zions Bank” in Salt Lake City, Utah for $105,428.00. The description of the payment is “AP CONTRACT SERVICES”. There is no indication that the payment was for Dr. Crane or for Employee B-2012.

On August 23, 2012, Joyce Bingham requested a copy of the contract upon which the July 2 payment was based. On September 7, 2012, the School District denied Bingham’s request. Bingham hired an attorney, Jared Harris, and on September 25, 2012, Harris requested certain documents from the School District:

Any and all documents and materials related to Scott Crane’s employment history, classification, pay grade and step, longevity, gross salary, salary history, including what Mr. Crane has been paid for each of the last ten (10) years he has been an employee with the School District and his current status.

At the same time, Harris requested these documents from the District:

Any and all reports, documents, orders, citations, and materials related to all contracts which form the basis for the payments made as follows:

January 20, 2012, for $10,743.91;
February 17, 2012, for $11,347.07;
March 20, 2012, for $11,372.55;
April 20, 2012, for $11,694.25;
May 18, 2012, for $18,399.67;
June 20, 2012, for $4,346.36; and
July 2, 2012, for $105,428.00.

The District responded on October 12, 2012, by providing some of the requested documents but not all of them. Specifically, the District refused to provide any contracts paid on July 2, 2012, claiming such

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5 See, Plaintiff’s Exhibit A, which was substituted at the hearing for Exhibit A attached to Bingham’s Amended Complaint.
6 Id.
7 See, Plaintiff’s Exhibit B attached to Bingham’s Amended Complaint.
8 See, Plaintiff’s Exhibit C attached to Bingham’s Amended Complaint.
9 See, Plaintiff’s Exhibit D attached to Bingham’s Amended Complaint.
10 See, Plaintiff’s Exhibit E attached to Bingham’s Amended Complaint.
contracts were personnel in nature. The District did inform Ms. Bingham that she could appeal its decision to District Court.

On October 15, 2012, Bingham filed her Complaint seeking a copy of the AP Contract Services contract, among other documents. On October 17, 2012, attorney Harris sent a second request to the District, seeking these documents in an attempt to learn the identity of Employee B-2012:

The name, employment history, classification, pay grade and step, longevity, gross salary, salary history, for each of the last ten (10) years, and the current status of employee identified as Employee B-2012 as identified in the April 24, 2012 Board of Trustees’ Special Meeting, including any and all agreements between the Board of Trustees and Employee B-2012 agreed to on April 24, 2012.

On November 1, 2012, the District identified Employee B-2012 as Dr. Scott Crane but refused to provide a copy of any contracts entered on July 2, 2012, because they are a part of Dr. Crane’s personnel file. Bingham filed her Amended Complaint on November 7, 2012, to also seek a copy of any B-2012 Contract.

The District’s Answer to Bingham’s Amended Complaint basically admits that Ms. Bingham has a right to a copy of all requested documents except for the AP Contract Services contract that underlies the $105,428.00 payment to Dr. Crane. Additionally, the District filed the Affidavit of Chad Struhs, interim superintendent for the District. Attached to the affidavit are all documents that the District previously provided to Bingham pursuant to her various document requests. Struhs states that the District will not provide the B-2012 contract because it is part of Crane’s personnel file and was undertaken in conjunction with Crane’s separation of employment with the District. Finally, Struhs states that he contacted Crane and urged him to allow the District to turn the contract over to Bingham, but Crane declined to do so.

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11 See, Plaintiff’s Exhibit F attached to Bingham’s Amended Complaint.
12 See, Plaintiff’s Exhibit H attached to Bingham’s Amended Complaint.
13 See, Plaintiff’s Exhibit I attached to Bingham’s Amended Complaint.

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Decision
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Two days prior to the hearing on Bingham's Amended Complaint, a local newspaper, the Post Register, decided to get involved in the litigation and filed its own Petition for Public Writings. Apparently, this decision was based upon the Post Register's earlier attempts to obtain information regarding the July 2 contract services payment of $105,428.00. On October 1, 2012, the Post Register submitted a request for public records to the District seeking:

(1) The identity of Employee B-2012, referred to in the board minutes from April 24, 2012.

(2) Details regarding contract services paid by District 55 on July 2 in the amount of $105,428.00. Who received this payment? What services did District 55 receive for the said amount?{14}

On October 3, 2012, the District declined to reveal the identity of Employee B-2012 to the Post Register and declined to provide a copy of the contract paid out on July 2, 2012, "due to the personnel nature."{15}

The parties stipulated to allow the Post Register to intervene in Bingham's litigation.

DISCUSSION

There is a lot the parties agree upon in this case. They agree that this is an action under the Idaho Public Records Act. They agree that the District is a public agency subject to the provisions of the Act. They agree that both Bingham and the Post Register made requests for production and disclosure of a contract dated April 24, 2012, by and between the School District and Dr. Crane (Employee B-2012). They agree that the District did not produce that contract due to its claim that it is a personnel record. The only real issues in disagreement are whether that contract is a public record and whether it is a personnel record.

In general, a court addressing a claim under the Idaho Public Records Act must first determine if a requested record is a public record. If the court determines it is a public record, then the court must decide whether the public record is exempt from disclosure pursuant to the Act.\textsuperscript{16} When considering the

\textsuperscript{14} See, Exhibit A attached to the Post Register's Petition.

\textsuperscript{15} See, Exhibit B attached to the Post Register's Petition.

question of exemption, a court must start with the presumption that “all public records are open to
disclosure and that all exemptions are narrowly construed.” Pursuant to this analysis, the Idaho
Supreme Court recently narrowly construed the category of personnel records exempted by I.C. § 9–
340C(1) in determining that a county hospital must disclose the names of all employees with a salary in
excess of fifty-thousand dollars because employee names were not specifically excluded under the
exemption. Specifically, the Supreme Court stated: “We conclude that had the legislature intended to
exempt employees’ names from disclosure, it would have expressly so provided.” In other words, the
presumption of transparency and disclosure is only overcome by a specific demonstration that an
exemption applies to the record being requested.

I.C. § 9-337(13) states that “public record” includes any writing containing information relating
to the conduct or administration of the public’s business prepared, owned, used or retained by any state
agency, independent public body corporate and politic or local agency regardless of physical form or
characteristics. I.C. § 9-337(8) states that a school district is a local agency. Therefore, any document
retained by the school district containing information relating to the conduct or administration of the
public’s business is a public record. The School District has admitted that the contract was undertaken
in conjunction with Crane’s separation of employment with the District. The hiring or separation of a
school district’s superintendent clearly relates to the conduct or administration of public business. The
District appears to be aware of this since it did disclose Crane’s employment contracts for 2010 and
2011. This Court has reviewed the separation contract and it is undisputedly a public record.

I.C. § 9-338 states that every person has the right to examine and copy any public record. I.C. §
9-337(9) states that a person is any natural person, corporation, partnership, firm, association, joint
venture, state or local agency or any other recognized legal entity. Therefore, Bingham and the Post

17 Id., quoting Cowles Publishing Co. v. Kootenai County Bd. of County Comm’rs, 144 Idaho 259, 264, 159 P.3d
18 Ward, footnote no. 3.
Register are persons who have the right to examine and copy any public record held by the school district. I.C. § 9-338(1) further states that there is a presumption that all public records are open and available for inspection. Both Bingham and the Post Register made a proper request to see the contract.

There are certain statutory exemptions that make certain records exempt from disclosure. The burden is on the School District to prove that this particular record fits within a statutory exemption. The District relies only upon the exemption in I.C. § 9-340C(1). 19 That exemption states that certain records are exempt from disclosure:

Except as provided in this subsection, all personnel records of a current or former public official other than the public official’s public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee’s or applicant’s written consent. . . . 20

The plain language of this exemption does not allow the public agency to disclose personnel records of a current or former public official except for certain limited information without the consent of the public official. The issue, then, is whether the contract is a personnel record exempt from disclosure.

There is no definition of personnel records or personnel information in the public records law. 21 However, the Idaho Supreme Court has suggested that when a record is more a product of a public official or employee’s job rather than an evaluation of an employee’s performance, it is not a personnel record. 22 Here, the contract is certainly not an evaluation of any type. It is simply a separation agreement. Because it is not obvious that the contract is a personnel record or personnel information, a

19 See, Defendant’s Memorandum Brief in Response to Amended Order to Show Cause, filed on November 26, 2012, at page 3.
20 The balance of this statutory provision is clearly not applicable to this case.
22 Id.

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narrow construction of the exemptions causes this Court to conclude that the contract is not a personnel record.\(\text{23}\)

This position, that the contract is not a personnel record, is bolstered in this case by the fact that Idaho law does define personnel files in regards to school district employees. I.C. § 33-518 states:

The board of trustees of each school district, including any specially chartered district, shall provide for the establishment and maintenance of a personnel file for each employee of the school district. Each personnel file shall contain any and all material relevant to the evaluation of the employee. The employee shall be provided timely notice of all materials placed in the personnel file and shall be afforded the opportunity to attach a rebuttal to any such materials. Personnel files are declared to be confidential and excepted from public access under any provision of the Idaho Code, including, but not limited to, sections 9-301 [repealed] and 59-1009 [repealed], Idaho Code, provided that each employee or designated representative shall be given access to his own personnel file upon request and shall be provided copies of materials contained therein, with the exception of recommendation letters, in a timely manner upon request.

School district employee files are to contain material relevant to evaluations of the employee. Nowhere in this statute does it state that a personnel file can contain other material not relevant to evaluations. The district argues that this language merely means that the file must contain all evaluative materials but that it does not mean that other non-evaluative material cannot also be placed in the file. The district may be correct; however, the non-evaluative material would not be exempt from disclosure if it fits within the list of exceptions to the personnel file exemption. That list of exceptions is “the public official’s public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency.” Here, the Court has carefully reviewed the contract at issue. It is material to the superintendent’s public service or employment history, gross salary and salary history and his status as a district employee. Compensation issues of public officials would not generally fall under the personnel file exemption. The only significant difference between Crane’s employment contracts and his separation contract is that the separation contract contains express language declaring that it is to be put in Crane’s personnel file and the District is to protect it from

disclosure efforts made under the Idaho Public Records Act. Parties cannot exempt a public record from disclosure and hide it from the public simply by placing it in a personnel file and declaring the personnel file exemption to be applicable to it. Using the Court’s discretion, it is convinced the contract is more akin to the list of exceptions provided in I.C. § 9-340(C), rather than being materially relevant to evaluations. I.C. § 9-340C(1) does not make the contract exempt from disclosure.

CONCLUSION

Both Bingham and the Post Register properly sought a public record under the Idaho Public Records Act. That record is not exempt from disclosure. The District must turn it over to Bingham and the Post Register within 3 days of receipt of this decision by giving the requested record to the lawyers for each requesting party.

IT IS SO ORDERED.


DAVID C. NYE
District Judge
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ___ day of December, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Jared M. Harris  
BAKER & HARRIS  
266 West Bridge Street  
Blackfoot, Idaho 83221

☐ U.S. Mail  
☐ Hand Deliver  
☒ Fax: (208)236-7288  
☒ Email:

Dale W. Storer  
HOLDEN KIDWELL HAHN & CRAPO, PLLC  
P.O. Box 50130  
1000 Riverwalk Drive, Suite 200  
Idaho Falls, ID 83405

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[Signature]
Deputy Clerk

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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF BINGHAM

JOYCE BINGHAM,
Plaintiff,
v.
BLACKFOOT SCHOOL DISTRICT No. 55,
Defendant/Respondent.

THE POST COMPANY, INC. dba The Post Register,
Intervenor/Petitioner.

Case No. CV-2012-0002123

JUDGMENT

Hon. David C. Nye

On December 7, 2012, this Court entered a Decision in favor of Plaintiff Joyce Bingham and Intervenor/Petitioner The Post Company, Inc. dba The Post Register and against Defendant/Respondent Blackfoot School District No. 55. Now, this Court enters judgment in favor of Bingham and the Post Register and against the School District. The District must provide the requested records under the Idaho Public Records Act. Costs and attorney fees, if any, will be decided pursuant to Idaho statutes and rules following the submission of proper documentation. The parties have 42 days to appeal the decision.

IT IS SO ORDERED.


DAVID C. NYE
District Judge
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of December, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

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v.

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Defendant/Respondent.

THE POST COMPANY, INC. dba The Post Register,

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Case No. CV-2012-0002123

DECISION REGARDING DISCLOSURE OF RECORDS

Hon. David C. Nye


Both Bingham's Complaint and the Post Register's Petition came on for hearing on November 30, 2012. Jared Harris appeared with and in behalf of Joyce Bingham. Steven Wright appeared in behalf of the Post Register. Dale Storer appeared in behalf of the School District, along with the interim
superintendent Chad Struhs. The Court heard oral argument from all counsel, received the July 2, 2012 contract for an *in camera* inspection, and took the matter under advisement. Now, the Court issues this decision.

**BACKGROUND**

The parties acknowledge that this is a case under the Idaho Public Records Act (the “Act”). The Act allows public examination of government records to ensure the government's activities are transparent to the public it represents and to facilitate public scrutiny of the conduct of public officers. The clear purpose of the Act is to open the doors of government to public scrutiny — to prevent the government from secreting its decision-making activities from the public, on whose behalf it has a duty to act. Yet, everything about this case smacks of a public agency trying to hide its decision-making from the public.

In the Minutes of the Board of Trustees’ Special Meeting held on April 24, 2012, it shows that the Board recessed into executive session to “consider hiring a public officer, employee, staff member or individual agent.” In addition to the Board members, Superintendent Scott L. Crane and Deputy Clerk Margaret Condor attended the executive session. The Board’s minutes for the executive session show “that the agreement between the board and Employee B-2012 has been executed.” The minutes do not identify the identity of Employee B-2012. Immediately after the Board came out of the executive session and back into the Special Meeting, Superintendent Scott L. Crane “in other business” announced his retirement.

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1. C. § 9-337 to I.C. § 9-347. See also, Bingham's Amended Complaint, pg. 4, Prayer for Relief ¶ 2; Post Register's Brief in Support of Petition for Public Writings Pursuant to Idaho Code § 9-343, pg. 2; and the School District's Memorandum Brief in Response to Amended Order to Show Cause, pg. 1.
2. See, Plaintiff's Exhibit G, which was substituted at the hearing for Ex. H attached to Bingham's Amended Complaint.
3. Id.
4. Id.

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In its Fiscal Year 2013 Expenditure Summary for the month of July 2012, the School District showed a payment on July 2, 2012, to “Zions Bank” in Salt Lake City, Utah for $105,428.00. The description of the payment is “AP CONTRACT SERVICES”. There is no indication that the payment was for Dr. Crane or for Employee B-2012.

On August 23, 2012, Joyce Bingham requested a copy of the contract upon which the July 2 payment was based. On September 7, 2012, the School District denied Bingham’s request. Bingham hired an attorney, Jared Harris, and on September 25, 2012, Harris requested certain documents from the School District:

Any and all documents and materials related to Scott Crane’s employment history, classification, pay grade and step, longevity, gross salary, salary history, including what Mr. Crane has been paid for each of the last ten (10) years he has been an employee with the School District and his current status.

At the same time, Harris requested these documents from the District:

Any and all reports, documents, orders, citations, and materials related to all contracts which form the basis for the payments made as follows:

January 20, 2012, for $10,743.91;
February 17, 2012, for $11,347.07;
March 20, 2012, for $11,372.55;
April 20, 2012, for $11,694.25;
May 18, 2012, for $18,399.67;
June 20, 2012, for $4,346.36; and
July 2, 2012, for $105,428.00.

The District responded on October 12, 2012, by providing some of the requested documents but not all of them. Specifically, the District refused to provide any contracts paid on July 2, 2012, claiming such

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5 See, Plaintiff’s Exhibit A, which was substituted at the hearing for Exhibit A attached to Bingham’s Amended Complaint.
6 Id.
7 See, Plaintiff’s Exhibit B attached to Bingham’s Amended Complaint.
8 See, Plaintiff’s Exhibit C attached to Bingham’s Amended Complaint.
9 See, Plaintiff’s Exhibit D attached to Bingham’s Amended Complaint.
10 See, Plaintiff’s Exhibit E attached to Bingham’s Amended Complaint.

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contracts were personnel in nature.\textsuperscript{11} The District did inform Ms. Bingham that she could appeal its decision to District Court.

On October 15, 2012, Bingham filed her Complaint seeking a copy of the AP Contract Services contract, among other documents. On October 17, 2012, attorney Harris sent a second request to the District, seeking these documents in an attempt to learn the identity of Employee B-2012:

The name, employment history, classification, pay grade and step, longevity, gross salary, salary history, for each of the last ten (10) years, and the current status of employee identified as Employee B-2012 as identified in the April 24, 2012 Board of Trustees’ Special Meeting, including any and all agreements between the Board of Trustees and Employee B-2012 agreed to on April 24, 2012.\textsuperscript{12}

On November 1, 2012, the District identified Employee B-2012 as Dr. Scott Crane but refused to provide a copy of any contracts entered on July 2, 2012, because they are a part of Dr. Crane’s personnel file.\textsuperscript{13} Bingham filed her Amended Complaint on November 7, 2012, to also seek a copy of any B-2012 Contract.

The District’s Answer to Bingham’s Amended Complaint basically admits that Ms. Bingham has a right to a copy of all requested documents except for the AP Contract Services contract that underlies the $105,428.00 payment to Dr. Crane. Additionally, the District filed the Affidavit of Chad Struhs, interim superintendent for the District. Attached to the affidavit are all documents that the District previously provided to Bingham pursuant to her various document requests. Struhs states that the District will not provide the B-2012 contract because it is part of Crane’s personnel file and was undertaken in conjunction with Crane’s separation of employment with the District. Finally, Struhs states that he contacted Crane and urged him to allow the District to turn the contract over to Bingham, but Crane declined to do so.

\textsuperscript{11} See, Plaintiff’s Exhibit F attached to Bingham’s Amended Complaint.
\textsuperscript{12} See, Plaintiff’s Exhibit H attached to Bingham’s Amended Complaint.
\textsuperscript{13} See, Plaintiff’s Exhibit I attached to Bingham’s Amended Complaint.
Two days prior to the hearing on Bingham’s Amended Complaint, a local newspaper, the Post Register, decided to get involved in the litigation and filed its own Petition for Public Writings. Apparently, this decision was based upon the Post Register’s earlier attempts to obtain information regarding the July 2 contract services payment of $105,428.00. On October 1, 2012, the Post Register submitted a request for public records to the District seeking:

(1) The identity of Employee B-2012, referred to in the board minutes from April 24, 2012.
(2) Details regarding contract services paid by District 55 on July 2 in the amount of $105,428.00. Who received this payment? What services did District 55 receive for the said amount?\(^{14}\)

On October 3, 2012, the District declined to reveal the identity of Employee B-2012 to the Post Register and declined to provide a copy of the contract paid out on July 2, 2012, “due to the personnel nature.”\(^{15}\)

The parties stipulated to allow the Post Register to intervene in Bingham’s litigation.

**DISCUSSION**

There is a lot the parties agree upon in this case. They agree that this is an action under the Idaho Public Records Act. They agree that the District is a public agency subject to the provisions of the Act. They agree that both Bingham and the Post Register made requests for production and disclosure of a contract dated April 24, 2012, by and between the School District and Dr. Crane (Employee B-2012). They agree that the District did not produce that contract due to its claim that it is a personnel record. The only real issues in disagreement are whether that contract is a public record and whether it is a personnel record.

In general, a court addressing a claim under the Idaho Public Records Act must first determine if a requested record is a public record. If the court determines it is a public record, then the court must decide whether the public record is exempt from disclosure pursuant to the Act.\(^{16}\) When considering the

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\(^{14}\) See, Exhibit A attached to the Post Register’s Petition.

\(^{15}\) See, Exhibit B attached to the Post Register’s Petition.

question of exemption, a court must start with the presumption that “all public records are open to disclosure and that all exemptions are narrowly construed.” Pursuant to this analysis, the Idaho Supreme Court recently narrowly construed the category of personnel records exempted by I.C. § 9-340C(1) in determining that a county hospital must disclose the names of all employees with a salary in excess of fifty-thousand dollars because employee names were not specifically excluded under the exemption. Specifically, the Supreme Court stated: “We conclude that had the legislature intended to exempt employees’ names from disclosure, it would have expressly so provided.” In other words, the presumption of transparency and disclosure is only overcome by a specific demonstration that an exemption applies to the record being requested.

I.C. § 9-337(13) states that “public record” includes any writing containing information relating to the conduct or administration of the public’s business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics. I.C. § 9-337(8) states that a school district is a local agency. Therefore, any document retained by the school district containing information relating to the conduct or administration of the public’s business is a public record. The School District has admitted that the contract was undertaken in conjunction with Crane’s separation of employment with the District. The hiring or separation of a school district’s superintendent clearly relates to the conduct or administration of public business. The District appears to be aware of this since it did disclose Crane’s employment contracts for 2010 and 2011. This Court has reviewed the separation contract and it is undisputedly a public record.

I.C. § 9-338 states that every person has the right to examine and copy any public record. I.C. § 9-337(9) states that a person is any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity. Therefore, Bingham and the Post

18 Ward, footnote no. 3.
Register are persons who have the right to examine and copy any public record held by the school district. I.C. § 9-338(1) further states that there is a presumption that all public records are open and available for inspection. Both Bingham and the Post Register made a proper request to see the contract.

There are certain statutory exemptions that make certain records exempt from disclosure. The burden is on the School District to prove that this particular record fits within a statutory exemption. The District relies only upon the exemption in I.C. § 9-340C(1). That exemption states that certain records are exempt from disclosure:

Except as provided in this subsection, all personnel records of a current or former public official other than the public official’s public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee’s or applicant’s written consent. ...

The plain language of this exemption does not allow the public agency to disclose personnel records of a current or former public official except for certain limited information without the consent of the public official. The issue, then, is whether the contract is a personnel record exempt from disclosure.

There is no definition of personnel records or personnel information in the public records law. However, the Idaho Supreme Court has suggested that when a record is more a product of a public official or employee’s job rather than an evaluation of an employee’s performance, it is not a personnel record. Here, the contract is certainly not an evaluation of any type. It is simply a separation agreement. Because it is not obvious that the contract is a personnel record or personnel information, a

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19 See, Defendant’s Memorandum Brief in Response to Amended Order to Show Cause, filed on November 26, 2012, at page 3.
20 The balance of this statutory provision is clearly not applicable to this case.
22 Id.
narrow construction of the exemptions causes this Court to conclude that the contract is not a personnel record.23

This position, that the contract is not a personnel record, is bolstered in this case by the fact that Idaho law does define personnel files in regards to school district employees. I.C. § 33-518 states:

The board of trustees of each school district, including any specially chartered district, shall provide for the establishment and maintenance of a personnel file for each employee of the school district. Each personnel file shall contain any and all material relevant to the evaluation of the employee. The employee shall be provided timely notice of all materials placed in the personnel file and shall be afforded the opportunity to attach a rebuttal to any such materials. Personnel files are declared to be confidential and excepted from public access under any provision of the Idaho Code, including, but not limited to, sections 9-301 [repealed] and 59-1009 [repealed], Idaho Code, provided that each employee or designated representative shall be given access to his own personnel file upon request and shall be provided copies of materials contained therein, with the exception of recommendation letters, in a timely manner upon request.

School district employee files are to contain material relevant to evaluations of the employee. Nowhere in this statute does it state that a personnel file can contain other material not relevant to evaluations. The district argues that this language merely means that the file must contain all evaluative materials but that it does not mean that other non-evaluative material cannot also be placed in the file. The district may be correct; however, the non-evaluative material would not be exempt from disclosure if it fits within the list of exceptions to the personnel file exemption. That list of exceptions is “the public official’s public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency.” Here, the Court has carefully reviewed the contract at issue. It is material to the superintendent’s public service or employment history, gross salary and salary history and his status as a district employee. Compensation issues of public officials would not generally fall under the personnel file exemption. The only significant difference between Crane’s employment contracts and his separation contract is that the separation contract contains express language declaring that it is to be put in Crane’s personnel file and the District is to protect it from

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akin to the list of exceptions provided in I.C. § 9-340(C), rather than being materially relevant to
evaluations. I.C. § 9-340C(1) does not make the contract exempt from disclosure.

CONCLUSION

Both Bingham and the Post Register properly sought a public record under the Idaho Public Records Act. That record is not exempt from disclosure. The District must turn it over to Bingham and the Post Register within 3 days of receipt of this decision by giving the requested record to the lawyers for each requesting party.

IT IS SO ORDERED.


DAVID C. NYE
District Judge
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DECISION REGARDING
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6 Id.
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Two days prior to the hearing on Bingham’s Amended Complaint, a local newspaper, the Post Register, decided to get involved in the litigation and filed its own Petition for Public Writings. Apparently, this decision was based upon the Post Register’s earlier attempts to obtain information regarding the July 2 contract services payment of $105,428.00. On October 1, 2012, the Post Register submitted a request for public records to the District seeking:

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(2) Details regarding contract services paid by District 55 on July 2 in the amount of $105,428.00. Who received this payment? What services did District 55 receive for the said amount?\(^4\)

On October 3, 2012, the District declined to reveal the identity of Employee B-2012 to the Post Register and declined to provide a copy of the contract paid out on July 2, 2012, “due to the personnel nature.”\(^5\)

The parties stipulated to allow the Post Register to intervene in Bingham’s litigation.

**DISCUSSION**

There is a lot the parties agree upon in this case. They agree that this is an action under the Idaho Public Records Act. They agree that the District is a public agency subject to the provisions of the Act. They agree that both Bingham and the Post Register made requests for production and disclosure of a contract dated April 24, 2012, by and between the School District and Dr. Crane (Employee B-2012). They agree that the District did not produce that contract due to its claim that it is a personnel record. The only real issues in disagreement are whether that contract is a public record and whether it is a personnel record.

In general, a court addressing a claim under the Idaho Public Records Act must first determine if a requested record is a public record. If the court determines it is a public record, then the court must decide whether the public record is exempt from disclosure pursuant to the Act.\(^6\) When considering the

\(^4\) See, Exhibit A attached to the Post Register’s Petition.
\(^5\) See, Exhibit B attached to the Post Register’s Petition.
question of exemption, a court must start with the presumption that "all public records are open to
disclosure and that all exemptions are narrowly construed." Pursuant to this analysis, the Idaho
Supreme Court recently narrowly construed the category of personnel records exempted by I.C. § 9-
340C(1) in determining that a county hospital must disclose the names of all employees with a salary in
excess of fifty-thousand dollars because employee names were not specifically excluded under the
exemption. Specifically, the Supreme Court stated: "We conclude that had the legislature intended to
exempt employees' names from disclosure, it would have expressly so provided." In other words, the
presumption of transparency and disclosure is only overcome by a specific demonstration that an
exemption applies to the record being requested.  

I.C. § 9-337(13) states that "public record" includes any writing containing information relating
to the conduct or administration of the public's business prepared, owned, used or retained by any state
agency, independent public body corporate and politic or local agency regardless of physical form or
characteristics. I.C. § 9-337(8) states that a school district is a local agency. Therefore, any document
retained by the school district containing information relating to the conduct or administration of the
public's business is a public record. The School District has admitted that the contract was undertaken
in conjunction with Crane's separation of employment with the District. The hiring or separation of a
school district's superintendent clearly relates to the conduct or administration of public business. The
District appears to be aware of this since it did disclose Crane's employment contracts for 2010 and
2011. This Court has reviewed the separation contract and it is undisputedly a public record.

I.C. § 9-338 states that every person has the right to examine and copy any public record. I.C. §
9-337(9) states that a person is any natural person, corporation, partnership, firm, association, joint
venture, state or local agency or any other recognized legal entity. Therefore, Bingham and the Post

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17 Id., quoting Cowles Publishing Co. v. Kootenai County Bd. of County Comm'rs, 144 Idaho 259, 264, 159 P.3d
18 Ward, footnote no. 3.
Register are persons who have the right to examine and copy any public record held by the school
district. I.C. § 9-338(1) further states that there is a presumption that all public records are open and
available for inspection. Both Bingham and the Post Register made a proper request to see the contract.

There are certain statutory exemptions that make certain records exempt from disclosure. The
burden is on the School District to prove that this particular record fits within a statutory exemption.
The District relies only upon the exemption in I.C. § 9-340C(1).\(^\text{19}\) That exemption states that certain
records are exempt from disclosure:

Except as provided in this subsection, all personnel records of a current or former public
official other than the public official's public service or employment history,
classification, pay grade and step, longevity, gross salary and salary history, status,
workplace and employing agency. All other personnel information relating to a public
employee or applicant including but not limited to, information regarding sex, race,
marital status, birth date, home address and telephone number, applications, testing and
scoring materials, grievances, correspondence and performance evaluations, shall not be
disclosed to the public without the employee's or applicant's written consent. \(^\text{20}\)

The plain language of this exemption does not allow the public agency to disclose personnel records of a
current or former public official except for certain limited information without the consent of the public
official. The issue, then, is whether the contract is a personnel record exempt from disclosure.

\(^\text{19}\) See, Defendant's Memorandum Brief in Response to Amended Order to Show Cause, filed on November 26,
2012, at page 3.
\(^\text{20}\) The balance of this statutory provision is clearly not applicable to this case.
\(^\text{22}\) Id.

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narrow construction of the exemptions causes this Court to conclude that the contract is not a personnel record.\textsuperscript{23}

This position, that the contract is not a personnel record, is bolstered in this case by the fact that Idaho law does define personnel files in regards to school district employees. I.C. § 33-518 states:

The board of trustees of each school district, including any specially chartered district, shall provide for the establishment and maintenance of a personnel file for each employee of the school district. Each personnel file shall contain any and all material relevant to the evaluation of the employee. The employee shall be provided timely notice of all materials placed in the personnel file and shall be afforded the opportunity to attach a rebuttal to any such materials. Personnel files are declared to be confidential and excepted from public access under any provision of the Idaho Code, including, but not limited to, sections 9-301 [repealed] and 59-1009 [repealed], Idaho Code, provided that each employee or designated representative shall be given access to his own personnel file upon request and shall be provided copies of materials contained therein, with the exception of recommendation letters, in a timely manner upon request.

School district employee files are to contain material relevant to evaluations of the employee. Nowhere in this statute does it state that a personnel file can contain other material not relevant to evaluations. The district argues that this language merely means that the file must contain all evaluative materials but that it does not mean that other non-evaluative material cannot also be placed in the file. The district may be correct; however, the non-evaluative material would not be exempt from disclosure if it fits within the list of exceptions to the personnel file exemption. That list of exceptions is "the public official’s public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency." Here, the Court has carefully reviewed the contract at issue. It is material to the superintendent’s public service or employment history, gross salary and salary history and his status as a district employee. Compensation issues of public officials would not generally fall under the personnel file exemption. The only significant difference between Crane’s employment contracts and his separation contract is that the separation contract contains express language declaring that it is to be put in Crane’s personnel file and the District is to protect it from

disclosure efforts made under the Idaho Public Records Act. Parties cannot exempt a public record from
disclosure and hide it from the public simply by placing it in a personnel file and declaring the personnel
file exemption to be applicable to it. Using the Court’s discretion, it is convinced the contract is more
akin to the list of exceptions provided in I.C. § 9-340(C), rather than being materially relevant to
evaluations. I.C. § 9-340C(1) does not make the contract exempt from disclosure.

CONCLUSION

Both Bingham and the Post Register properly sought a public record under the Idaho Public
Records Act. That record is not exempt from disclosure. The District must turn it over to Bingham
and the Post Register within 3 days of receipt of this decision by giving the requested record to the
lawyers for each requesting party.

IT IS SO ORDERED.


[Signature]

DAVID C. NYE
District Judge
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ___ day of December, 2012, I served a true and correct copy of the foregoing document upon each of the following individuals in the manner indicated.

Jared M. Harris
BAKER & HARRIS
266 West Bridge Street
Blackfoot, Idaho 83221

☐ U.S. Mail
☐ Hand Deliver
☒ Fax: (208) 236-7288 785-6749
☒ Email:

Dale W. Storer
HOLDEN KIDWELL HAHN & CRAPO, PLLC
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, ID 83405

☐ U.S. Mail
☐ Hand Deliver
☒ Fax: 523-9518
☒ Email:

Steven J. Wright
WRIGHT & WAYMENT, PLLC
477 Shoup Avenue, Suite 109
P.O. Box 50578
Idaho Falls, ID 83405

☐ U.S. Mail
☐ Hand Deliver
☒ Fax: 523-4400
☒ Email:

[Signature]
Deputy Clerk

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<td>The appointment of Irving Littman to the Idaho Endowment Fund Investment Board.</td>
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<td>RELATING TO CODIFIER'S CORRECTIONS to make various codifier and technical corrections to the Idaho Code.</td>
<td>Katherine Gerrity, Legislative Services</td>
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<td>RS26159</td>
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<td>RELATING TO THE STATE HISTORICAL SOCIETY to provide that certain artifacts, materials, and buildings are held in trust.</td>
<td>Janet Gallimore, Idaho Historical Society</td>
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<td>DOCKET NO: 21-0101-1701</td>
<td>IDAPA 21 - DIVISION OF VETERANS SERVICES 21-01-01 Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans' Homes.</td>
<td>Tracy Schaner, Deputy Administrator, Division of Veterans Services</td>
</tr>
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<td>MINUTES APPROVAL:</td>
<td>Minutes of January 17, 2018</td>
<td>Senators Anthon and Stennett</td>
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<td>Minutes of January 31, 2018</td>
<td>Senators Winder and Buckner-Webb</td>
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</tbody>
</table>

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov
DATE: Wednesday, February 21, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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.

CONVENE: Chairman Siddoway called the meeting of the Senate State Affairs Committee (Committee) to order at 8:05 a.m. with a quorum present.

INTRODUCTION OF PAGE: Chairman Siddoway welcomed Jayden Huston to the Committee and asked her to introduce herself. Ms. Huston stated she attends Mountain Home High School, and plans to attend the University of Idaho to study sports medicine. She said she likes playing soccer and pursues artistic endeavors. Ms. Huston indicated she would like to learn more about politics, build up her resumé, and meet new people. Chairman Siddoway noted that Ms. Huston has worked on a dairy farm and has experience with childcare.

VOTE ON GUBERNATORIAL APPOINTMENT: The appointment of Irving Littman to the Idaho Endowment Fund Investment Board.

Senator Winder moved to send the gubernatorial appointment of Irving Littman to the Idaho Endowment Fund Investment Board (IEFIB) to the floor with the recommendation that he be confirmed by the Senate. Senator Buckner-Webb seconded the motion.

Senator Winder commented that Mr. Littman has an extensive background in investments and financial management. He noted he has served on the IEFIB with Mr. Littman, who has been on the IEFIB about six months. He declared Mr. Littman brings an insightful approach in dealing with managers and in asking the right questions. Senator Winder expressed a high level of confidence in Mr. Littman.

The motion carried by voice vote.

RS 25711 RELATING TO CODIFIER'S CORRECTIONS to make various codifier and technical corrections to the Idaho Code.

RS 26159 A UNANIMOUS REQUEST from the Senate Commerce and Human Resources Committee relating to prohibited practices of collection agencies.

MOTION: Senator Winder moved to send RS 25771 and RS 26159 to print. Senator Anthon seconded the motion.
Senator Stennett requested more information on RS 26159 before the vote. Senator Potts explained this legislation would align the section of Idaho Code known as the Idaho Collections Agency Act (ICAA) with the federal Fair Debt Collection Practices Act (FDCPA). The purpose is to clarify that, in debt collections, a contract can still be enforced. He remarked that the ICAA puts an unconstitutional prohibition on the freedom of businesses and industries to contract. Although contracts usually address the issue of collections, currently, judges are given the ability to ignore or not enforce private contracts.

Senator Lodge asked who requested he bring this legislation. Senator Potts stated it was Representative Zollinger. Senator Lodge inquired with whom they worked. Senator Potts responded John Watts, who represents debt collection agencies, participated. He added they have also talked with the Department of Finance. The Department of Finance did not express concern.

Senator Lodge asked what issues referred to in the Statement of Purpose face collection agencies. Senator Potts replied judges award different amounts than what are set in the contract.

Senator Lodge asked what business is Representative Zollinger’s in. Senator Potts stated he collects debt. Senator Lodge requested Senator Potts find out what is different about this agreement than what was in an agreement made last year. Senator Potts agreed to provide that information to Senator Lodge.

Senator Winder pointed out that Senator Potts spoke with him and Senator Hill about the bill, and they told him he had to go back and get a unanimous consent before he could bring it before the Committee.

UNANIMOUS CONSENT: Senator Hill asked for unanimous consent to vote on each RS separately. There were no objections.

VOTE: Motion to send RS 25711 to print carried by voice vote.
Motion to send RS 26159 to print carried by voice vote.

H 403 RELATING TO THE STATE TREASURER to revise provisions regarding allowable investments by the State Treasurer.

Laura Steffler, Chief Deputy Treasurer, Idaho State Treasurer’s Office, stated she would fill in for Edelene Ohman. Ms. Steffler stated H 403 is a clarification to existing code regarding corporate bonds. Current code uses "controlled in the United States," and H 403 changes the phrase to "domiciled in the United States" to ensure corporate entities in which the State of Idaho invests are domiciled in the United States. H 403 also mandates all litigation will be under the jurisdiction of the United States.

MOTION: Senator Hill moved to send H 403 to the floor with a do pass recommendation. Vice Chairman Hagedorn seconded the motion. The motion carried by voice vote.

H 404 RELATING TO POWERS AND DUTIES of the Credit Rating Enhancement Committee.

Laura Steffler, Chief Deputy Treasurer, Idaho State Treasurer’s Office, related H 404 deals with the Credit Rating Enhancement Committee (CREC). She indicated the current code requires the CREC to create a report for the Governor and legislative leadership by August 1. She pointed out, with the fiscal year ending June 30, the CREC feels that is not enough time to do the necessary analyses. Ms. Steffler explained the CREC determined December 1 to be a better date in order to allow more time to compile a more comprehensive report. It will also allow the Legislature and Governor to review the report prior to the Legislative session.
MOTION: Vice Chairman Hagedorn moved to send H 404 to the floor with a do pass recommendation. Senator Lodge seconded the motion. The motion carried by voice vote.

H 416 RELATING TO THE STATE HISTORICAL SOCIETY to provide that certain artifacts, materials, and buildings are held in trust.

Janet Gallimore, Executive Director, Idaho State Historical Society (ISHS), reported the ISHS has the authority and responsibility to collect, preserve, and promote Idaho’s history. She related that the ISHS has been gathering the State’s history since 1881. The historical resources over which the ISHS is steward as:

- 50,000 objects,
- 100,000 prehistoric artifacts,
- 130,000 feet of government records,
- 30,000 rolls of microfilm,
- 500,000 photographs,
- 5,000 films and videos,
- 3,100 oral histories,
- 32,000 maps,
- 25,000 books and periodicals, and
- 60 historic and contemporary structures.

Ms. Gallimore detailed other responsibilities of the ISHS; she emphasized that the agency illuminates Idaho's future and helps people explore and appreciate Idaho’s rich past.

Ms. Gallimore stated H 416 amends Idaho Code § 67-4121 to clarify regulations regarding disposition of ISHS collections. Amending Idaho Code will ensure ISHS collections are held in trust for the people of Idaho and:

- are not treated as capitalized or financial assets,
- support the ISHS mission and public trust responsibilities, and
- are protected, secure, unencumbered, cared for, and preserved.

Ms. Gallimore pointed out that under industry professional standards, proceeds from the sale of collections are to be used for the advancement of the ISHS mission, including acquisition or care of collections (see Attachment 1).

Ms. Gallimore shared further information regarding the collections and cultural resources under the management of ISHS (see Attachment 2).

MOTION: Senator Buckner-Webb moved to send H 416 to the floor with a do pass recommendation. Vice Chairman Hagedorn seconded the motion.

Chairman Siddoway asked where the income from sales of properties is generally directed. Ms. Gallimore explained the ISHS board has a management policy outlining the disposition of sales. Proceeds from sales go into a fund for the acquisition or care of collections. Chairman Siddoway inquired if the proceeds from the sale of a building would go back into the Permanent building fund. Ms. Gallimore replied that most of the buildings held by ISHS are historic buildings, and it would be unlikely they would be sold. She added the sale of the buildings is outside the scope of this legislation. More modern buildings are owned by the State so the sale of those buildings would not be in their purview.
Senator Winder explained the use of museum collections in other states were put on asset sheets and pledged as collateral for debt. This amendment will eliminate that possibility.

The motion carried by voice vote.

DOCKET NO: 21-0101-1701
IDAPA 21 - DIVISION OF VETERANS SERVICES – 21-01-01 Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure.

Tracy Schaner, Deputy Administrator of the Division of Veteran Services, requested approval of the pending rules governing the State veterans homes. She noted, due to extensive revisions to the nursing home federal regulations, facilities can no longer waive their liability for loss of resident personal property. The pending rule removes Section 203, as it is no longer enforceable. Ms. Schaner related that negotiation and written comments were not involved concerning this rulemaking, as it was necessary to meet federal regulations. She explained there is an estimated ongoing fiscal impact of $20,000 to federal funds and operating funds; no impact is expected for the General Funds.

MOTION: Senator Lodge moved to approve Docket No. 21-0101-1701. Senator Hagedorn seconded the motion. The motion carried by voice vote.

MINUTES APPROVAL: Senator Anthon moved to approve the Minutes of January 17, 2018. Vice Chairman Hagedorn seconded the motion. The motion carried by voice vote.

Senator Winder moved to approve the Minutes of January 31, 2018. Senator Hill seconded the motion. The motion carried by voice vote.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 8:36 a.m.
Chairman Siddoway and committee members:

It is a pleasure to present to you this morning. I am Janet Gallimore, the Executive Director of the Idaho State Historical Society.

The Idaho State Historical Society Board of Trustees has broad authorization and responsibilities under Idaho code 67-4126 to collect, preserve, and promote Idaho’s history and serve in a variety of official functions therein. The Agency has gathered the state’s history since 1881 and is the steward for State-owned historical resources including over 50,000 objects, 100,000 prehistoric artifacts, 130,000 feet of government records, 30,000 rolls of microfilm, 500,000 photographs, 5,000 films and videos, 3,100 oral histories, 32,000 maps, 25,000 books and periodicals, and 60 historic and contemporary structures. The Idaho State Historical Society is an integral education institution which teaches historical literacy, stewards tangible objects and archival materials, manages essential public records, and fulfills legal requirements of federal historic preservation laws, giving Idaho voice to federal decision making. The Idaho State Historical Society illuminates our state’s future and helps people of all ages explore and appreciate Idaho’s rich past and learn more about themselves.

We are requesting the Committee’s consideration and approval of H416, which amends Idaho code 67-4121. This amendment will clarify regulations regarding disposition of State Historical Society Collections.

Amending code 67-4121 will ensure that ISHS collections, held in trust for the people of the State of Idaho, are not treated as capitalized or financial assets; that the collections in ISHS custody support its mission and public trust responsibilities; and
that the collections are protected, secure, unencumbered, cared for, and preserved.

According to accepted industry professional standards/code of ethics, including the American Alliance of Museums and Society of American Archivists, disposal of collections through sale, trade or research activities is solely for the advancement of the Agency’s mission. Proceeds from the sale of collections are to be used consistent with the established standards of the Agency’s disciplines, but in no event shall they be used for anything other than acquisition or direct care of collections, which is defined as enhancing the usefulness, quality, and longevity of collections, therefore ensuring they will continue to benefit the public.

Recent examples of actions contrary to the AAM Code of Ethics include the Detroit Art Museum, whose collections were recently presented as sellable assets in the City of Detroit’s bankruptcy jeopardizing the Museum, its sustainability, and the public’s cultural assets. In another example, legislation proposed in a nearby state sought to sell collections as a means to generate funding to build a new facility.

The advantage of this proposed legislation is an amendment to existing code that helps clarify the statute. The ISHS relies primarily on the generosity of donors to acquire collections on behalf of Idaho’s citizens. Donor trust could be severely impacted if people think that ISHS is acting contrary to best practices. Adhering to ethical and professional standards, demonstrates to Idaho’s citizens that the ISHS holds collections for the benefit of present and future generations and encourages public confidence and respect.
A factsheet that outlines key collections is included in your packets for your reference. Mr. Chairman, I am happy to stand for your questions.
Collections and Cultural Resources Under Management

State Seal painted by Emma Edwards Green, 1893

Jefferson Peace Medal ca 1803

Lorenzo H. Hatch House in Franklin, built 1872

CONSTITUTION
OF THE
STATE OF IDAHO

Original, handwritten Constitution signed 1889
Stewardship of State Cultural Resources

The Idaho State Historical Society provides preservation, rehabilitation, restoration, and reconstruction management services for the State of Idaho’s sixty-one historic buildings. This includes planning, maintenance, and treatment in accordance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

The State Historic Preservation Office manages the Archeology Survey of Idaho and its western repository, providing collections management for the State of Idaho’s 30,000 archeological collections, including inventory, cataloging, and environmentally controlled storage.

The State Museum provides collections management for the State of Idaho’s approximately 50,000 objects, including activities such as cataloging, photo documentation, preservation, incoming and outgoing loans to organizations throughout the state, and environmentally-controlled storage.

The State Archives provide archival management for the State of Idaho’s 98,500 cubic feet of official government records, including photographs, manuscripts, maps, books, periodicals, and oral history interviews. Services include cataloging, digitization, preservation, Inter-library Loan services, and environmentally-controlled storage.
The Idaho State Archives holds the most comprehensive collection of Idaho and regional history materials in the state, including:

98,500 cubic feet of official government records, manuscript and state archives material, such as the personal papers of Senator William E. Borah; records of the Territorial government; gubernatorial papers from George Shoup through Dirk Kempthorne; records of the Idaho Soldiers’ Home; and records of the Women’s Challenge Bicycle Race, a national qualifying event for women cyclists that was originally sponsored by Ore-Ida, a Boise-based company.

30,000 rolls of microfilm available for reproduction, including Idaho newspapers dating from 1863 to present, county-level records (land and property, citizenship, court, vital and tax) dating from 1863, Sanborn fire insurance maps for many Idaho cities, Idaho death certificates (1911-1937), federal census schedules (1790-1930), theses and dissertations on Idaho topics, and a variety of materials related to Idaho history and purchased from the National Archives.

500,000 photographic images (prints, negatives, slides, and transparencies), including images taken by E. Jane Gay during the allotment of lands for the Nez Perce Indians; the life work of Boise photographer R. Harold Sigler; images from the Sherwood family, pioneer settlers of the Henry’s Lake area of Idaho; and inmate “mug shots” from the Idaho Territorial/State Prison.

5,000 motion picture films and videos, including a 16mm copy of a 1916 film celebrating the 10th anniversary of the town of Buhl in south central Idaho, footage of a 1935 National Geographic Society expedition on the Salmon River, and promotional films produced by the Idaho Department of Commerce (1960s-1990s).

An extensive oral history collection with over 3,100 individual interviews (audio and video formats), with projects documenting such topics as African-Americans in Southeast Idaho, Czechoslovakian Culture in the Buhl-Castleford Area, Women and Political Activism in Idaho, 1945-1980, Saddle making in Idaho, Bureau of Land Management in Idaho, and Veterans History Project.

32,000 maps, including a series of hand-drawn and hand-colored maps prepared by Idaho’s first surveyor general, Lafayette Cartee, State highway maps, fire insurance maps for a variety of towns and businesses, and blueprints and architectural plans from the state’s premier architectural firms, such as Tourtellotte and Hummel.

An open-stack reference collection of book and periodical titles for the study of regional, state, community, and family history.

The Western Repository of the Archaeological Survey of Idaho documents and holds the archaeological collections from a ten-county area in southwest Idaho. All materials are identified, stabilized, conserved, labeled, archivally packaged, and electronically documented and are available for educational use in exhibits and scientific studies.

Collections include:

423 cubic feet of archaeological materials from state and private lands and 399 cubic feet of archaeological materials from federal land. These collections include donations to the Idaho State Historical Society but are mainly derived from archaeological studies being performed by federal agencies. The Western Repository meets the requirements stipulated for such federal collections.

83,000 prehistoric artifacts, faunal remains, and sediment samples; 31,000 historic artifacts from over 4,000 archaeological sites located in the ten-county area of southwest Idaho.

62 linear feet of associated documents such as catalogs, field notes, photographic materials, analysis records, final reports, and maps. Materials are mostly generated by large research projects at important archaeological sites as Silver City, Idaho City, the Mary Hallock Foote House, and Givens Hot Springs.

Archaeological site context materials such as faunal and plant remains and soil and charcoal samples. These collections provide important sources for future analytical techniques relative to studying environmental as well as cultural change.
The Idabo State Museum is Idaho’s official state historical museum that holds, preserves, and documents Idaho’s largest collection of material culture with over 50,000 artifacts.

The Military in Idaho
Artifacts from Fort Boise, Pocatello Air Base, Farragut Naval Training Station, Gowen Field, and Idaho veterans showcase our state’s proud military tradition.

The J. Curtis Earl collection features arms and armaments from the Bronze Age to those used today for sport, law enforcement, and military purposes. It also includes medieval arms and armor, Revolutionary War and Civil War artifacts, an 1883 Gatling gun on its original carriage used on the Western frontier, 19th century pistols and rifles used in the West, and WW I and II rifles, pistols, machine guns, mortars, and cannons.

Business, Industry, and Transportation in Idaho
The evolving nature of business and industry founded or headquartered within the state is explored in the collections. Mining, logging, farming, ranching, engineering, food production, transportation, retail, and technology are all represented.

State Governance and Politics
Objects depicting the role of federal and state government and politics illustrate the development and evolving character of Idaho. This includes artifacts used by notable state elected officials and employees, pieces from significant state events and functions, and those documenting citizen-generated political activities.

Historical Costumes and Textiles
Clothing and textile artifacts, including first lady inaugural gowns, quilts representing many eras and patterns, military uniforms from the Civil War through today, and a 1967 stage costume worn by Idahoman Paul Revere of Paul Revere and the Raiders are all a part of the State Museum collection.

Life in Idaho
Simple artifacts like sports trophies, confirmation dresses, and dishes illuminate the rich cultural, social, religious, economic, political, and ethnic diversity found within our state.

Rich Cultural Diversity
Artifacts in the collection explore Idaho’s multicultural heritage. The Ah Fong Collection, representing three generations of Chinese doctors in the state, is one of the largest apothecary collections outside of China.

Ethnomorphic and Contemporary Native American History in Idaho
Objects representing Idaho’s five federally recognized tribes help tell the story of our state’s earliest inhabitants. Collections range from Nez Perce Chief Looking Glass’s tomahawk pipe to contemporary pow-wow regalia.

Art in Idaho
Idaho’s breathtaking landscape has inspired artists from the beginning. From the first state seal designed by a woman to a bronze statue of Sacajawea, art features prominently in the collections.
The Idaho State Historical Society is an extraordinary system of cultural and historic resources comprised of the Idaho State Historical Museum, Idaho State Archives and State Records Center, the State Historic Preservation Office and Historic Sites Program. We seek to inspire, enrich and engage all Idahoans by leading the state in preserving, sharing, and using history and cultural resources relevant to today to inform and influence the future.

Governor C.L. "Butch" Otter
Janet L. Gallimore, Executive Director

Idaho State Historical Society Trustees
Don Pischner, District 1, Coeur d'Alene
Earl Bennett, Vice Chair, District 2, Genesee
Bill Butticci, District 3, Emmett
Ernest A. Hoidal, District 4, Boise
Tom Blanchard, Chair, District 5, Bellevue Paul Smith, District 5, Twin Falls (term beings 1/1/2018)
Jim Johnston, District 6, Pocatello
Hope Benedict, District 7, Salmon

Affiliate Boards
Foundation for Idaho History
Friends of the Historical Museum and Old Idaho Penitentiary
State Historical Records Advisory Board
Friends of Stricker Ranch, Hansen
Franklin Pioneer Association and the City of Franklin
J. Howard Bradbury Logging Museum and the City of Pierce
Historic Sites Review Board
Archaeological Survey of Idaho Board
Idaho Geographic Names Advisory Council
Governor's Lewis and Clark Trail Committee

Become a Member Today!
It means more with a membership card. It’s your key to all kinds of exclusive collections, cultural resources, tours, and events. Be part of history and join now at 208-334-2682 or online at www.history.idaho.gov.
# AMENDED AGENDA #2

**SENATE STATE AFFAIRS COMMITTEE**

8:00 A.M.  
Room WW55  
Friday, February 23, 2018

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<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
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<tr>
<td>HCR 039</td>
<td>STATING FINDINGS OF THE LEGISLATURE to extend congratulations for success to the Idahoans representing the United States at the 2018 Winter Olympics.</td>
<td>Representative Manwaring</td>
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<tr>
<td>RS25709</td>
<td>UNANIMOUS CONSENT REQUEST from Senate Commerce and Human Resources Committee relating to the Barber and Cosmetology Services Act.</td>
<td>Senator Den Hartog</td>
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<td>RS26182</td>
<td>RELATING TO THE IDAHO UNCLAIMED PROPERTY ACT (Act) to update the Act recognizing new technology and processes</td>
<td>Ingrid Bolen, Idaho State Treasurer's Office</td>
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<td>H 386</td>
<td>RELATING TO COUNTY ELECTION RECORDS to revise provisions regarding records retention and to provide that the voter registration database shall constitute the register of electors.</td>
<td>Chad Houck, Secretary of State</td>
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<td>H 446</td>
<td>RELATING TO NOTARIES PUBLIC to clarify requirements for stamping devices, to revise provisions related to the application for a Notary Public Commission, provisions related to renewal, and other technical corrections.</td>
<td>Chad Houck, Secretary of State</td>
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<td>S 1280</td>
<td>RELATING TO SCHOOL DISTRICTS to revise provisions regarding school board trustees.</td>
<td>Senator Souza</td>
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<tr>
<td>RS25913</td>
<td>STATING FINDINGS OF FACT relating to a time zone change in Northern Idaho.</td>
<td>Senator Vick</td>
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</table>

**MINUTES APPROVAL:**  
The minutes of February 7, 2018  
Senators Hill and Vick

*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**  
Chairman Siddoway  
Vice Chairman Hagedorn  
Sen Hill  
Sen Winder  
Sen Lodge

**COMMITTEE SECRETARY**  
Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, February 23, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:03 a.m. with a quorum present.

HCR 039 STATING FINDINGS OF THE LEGISLATURE to extend congratulations for success to the Idahoans representing the United States at the 2018 Winter Olympics.

Representative Dustin Manwaring, District 29, stated HCR 039 is to recognize and congratulate Idaho's Olympic athletes. He gave an update on how those who have performed so far in Pyeongchang, South Korea. Representative Manwaring asserted the Olympians teach about perseverance and sportsmanship.

MOTION: Senator Lodge moved to send HCR 039 to the floor with a do pass recommendation. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

RS 25709 UNANIMOUS CONSENT REQUEST from Senate Commerce and Human Resources Committee relating to the Barber and Cosmetology Services Act.

Senator Den Hartog reported RS 25709 is compromise legislation regarding licensing issues between the Board of Cosmetology and the Bureau of Occupational Licensing. The proposed legislation would consolidate the barber and cosmetology boards.

MOTION: Senator Hagedorn moved to send RS 25709 to print. Senator Hill seconded the motion. The motion carried by voice vote.

RS 26182 RELATING TO THE IDAHO UNCLAIMED PROPERTY ACT to update the Act recognizing new technology and processes.

Ingrid Bolen, Division of Unclaimed Property (DUP), Idaho State Treasurer's Office, advised the Committee that Idaho's unclaimed laws have not been updated since 1983. She stated the purpose of RS 26182 is to modernize the laws to adjust for technological advances of the last 35 years and to provide a more seamless method of operation for Idahoans and businesses. Ms. Bolen explained the following key areas impacted by this legislation: new types of unclaimed property, improvements to definitions, revision of laws dictating how long unclaimed property must be held, definition of categories of sensitive information, and use of email for due diligence letters.

Senator Hill asked why this RS is before the Committee so late in the session. Ms. Bolen replied the DUP has been reworking and rewriting this RS for nine months in order to render the least amount of impact on Idahoans and businesses.
**Senator Winder** commented RS 26182 is an extensive rewrite; he asked if it is essential to get it through the Legislature this year. He noted pushing the legislation through will require a great deal of time. **Ms. Bolen** explained most rewrites in this legislation are clarifications. She indicated the DUP met with the Idaho Association of Commerce and Industry (IACI), who approved of the changes. Other states to which businesses also report are modernizing as well; the DUP is trying to provide laws that correlate with other states. **Senator Winder** expressed concern that, due to the time factor, this legislation may not get through the process in a timely manner. He inquired again if it is essential the legislation is enacted this year. **Ms. Bolen** replied there is current law which has worked since 1983. If the Committee decided to wait, operations would not be interrupted.

**Senator Stennett** asked if a particular part of the RS was problematic or needed more work. Discussion ensued regarding analyzing the laws, line by line, complying with Idaho's Constitution, limiting the need to revise again any time in the near future, updating definitions, adding new types of properties, and being fair to both businesses and Idahoans.

**Senator Winder** stated he would support printing the RS, but he did not think it would get through this session. He indicated the legislation was worthy of discussion.

**MOTION:** Senator Winder moved to send RS 26182 to print. Senator Hill seconded the motion.

**Senator Hagedorn** informed the Committee that Ms. Bolen came early in the session to see if it could be printed. He stated, given the size, it would be appropriate to print it, and put it in the public domain for more comments. Necessary changes could be made next year.

The motion carried by voice vote.

**H 386 RELATING TO COUNTY ELECTION RECORDS to revise provisions regarding records retention and to provide that the voter registration database shall constitute the register of electors.**

**Chad Houck**, Deputy Secretary, Office of the Secretary of State (SOS), informed the Committee that H 386 proposes to clarify how long election records are kept. It would also designate the Statewide voter registration database, currently maintained by the Secretary of State and accessed by the counties, as the official register of electors.

**MOTION:** Senator Lodge moved to send H 386 to the floor with a do pass recommendation. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

**H 446 RELATING TO NOTARIES PUBLIC to clarify requirements for stamping devices, to revise provisions related to the application for a notary public commission, provisions related to renewal, and other technical corrections.**

**Chad Houck**, Deputy Secretary, SOS, explained H 446 amends Title 51 of Idaho Code to clarify requirements for stamping devices, reword qualifications for application of a notary, and remove references to the word "renewal," as notaries are not renewed, but recommissioned every six years.

**Chairman Siddoway** requested an explanation regarding the operation of an electronic notary. **Mr. Houck** explained how documents are currently signed by the parties and notaries on paper. With an electronic notary, the document is signed electronically, a practice now commonly in use, and any alteration will be detected. The document is never a physical piece of paper, only an electronic document with electronic signatures.
MOTION: Senator Vick moved to send H 446 to the floor with a do pass recommendation. Senator Hagedorn seconded the motion. The motion carried by voice vote.

S 1280 RELATING TO SCHOOL DISTRICTS to revise provisions regarding school board trustees.

Senator Mary Souza, District 4, explained this bill has only one change. The change proposes to move school board elections from May of odd years to November of the same year, in conjunction with city elections. The purpose of the change is to increase voter turnout and involve communities in the schools. Senator Souza advised research from the National Education Association (NEA) indicated involvement of schools, parents, families, and communities result in students:

- earning higher grades;
- attending school more regularly;
- staying in school longer; and
- enrolling in higher level programs.

Senator Souza discussed the low voter turnout throughout the State, and identified six districts with 6.2 percent turnout being the highest. She stated similar results occur in precincts around the State (see Attachment 1). Senator Souza spoke of the importance of school boards, and she referred to unsuccessful efforts to improve voter turnout for school board elections. The Idaho School Boards Association (ISBA) suggested a solution in 2018 ISBA Resolution No. 9 (see Attachment 2). Their resolution, which passed by 71 percent in favor, is the basis of S 1280. She related that Senator Rice, who has been involved in the development of this bill, and the Caldwell School District Superintendent who presented the proposal to the ISBA, wanted to attend the Committee meeting but had other commitments.

Senator Souza indicated county clerks are not in favor of the bill. Changing the date in this way causes complications relating to the lack of alignment of school district zones, county voting precincts, and city boundaries. An additional challenge will be the need for multiple ballot faces. Senator Souza stated she and Senator Rice have offered to work with the county and city clerks to develop a method to improve compatibility of the boundaries. She pointed out the timing would correlate with the upcoming 2020 United States Census (Census) when such boundaries are often redrawn.

Senator Stennett asked if it would be more appropriate to do this work after the census. Senator Souza replied the boundary concern is a separate issue. She felt moving the date of school board elections would have a direct, positive impact on the quality of education; she explained, if this change is put off until the lines are redrawn after the Census, it could be six years before the new election date would be effective.

Senator Hill asked how many of those elections with low turnout had uncontested races. Senator Souza responded, if no one is contested, the school districts do not have to hold an election.

TESTIMONY IN SUPPORT of S 1280:

Shalene French, Superintendent, Caldwell School District (District), representing the Caldwell School District Board of Trustees (CBT), clarified that the Chairman of the Board, Chuck Stout, presented the resolution to the ISBA. Ms. French discussed low voter turnout in trustee elections, and the importance of effective school trustees. She stated the CBT believed holding the elections during the November general election in odd years would increase voter turnout, create greater community awareness, and stimulate interest in the importance of trustee influence on education.
Senator Stennett asked what level of turnout Ms. French saw in general elections for local races. Ms. French reported the CBT concluded issues of education are of interest to the voters; citizens are more likely to vote when school-related elections are held in conjunction with another election.

Karen Echeverria, Executive Director, Idaho School Boards Association, pointed out that legislation on moving the date of trustee election has reappeared over many years. Ms. Echeverria explained that ISBA opposed moving the date to November of even numbered years; though ISBA does not want to change from the current date, they support S 1280 as a compromise. She detailed the following problems related to rezoning: cost, population difference, and school districts crossing county lines.

Ms. Echeverria addressed Senator Hill’s question regarding contested elections noting results of an ISBA survey following the last election revealed almost 70 percent had no more than one contestant. In the past 10 years there was only one election that was contested with two candidates, and three elections with no candidates. Ms. Echeverria declared, if the Committee felt it important to do so, the ISBA would support moving the elections to the non-partisan ballot.

Chairman Siddoway passed the gavel to Vice Chairman Hagedorn.

Senator Vick asked if the resolution passed by the ISBA reflected the desire of the ISBA. Ms. Echeverria stated ISBA supports movement to odd years, but as a compromise, would support S 1280. Senator Vick asked if that stand was part of another resolution. Ms. Echeverria explained testimony on the floor indicated it was for compromise purposes only.

Senator Buckner-Webb asked if the ISBA preferred to keep the current date. Ms. Echeverria replied in the affirmative.

Phil McCrane, Chief Deputy Clerk, Ada County Clerk’s Office, Idaho Association of Counties (IAC), and the Idaho Association of Clerks and Recorders, expressed appreciation for Senator Souza’s hard work with the interested parties to find a solution to this problem. Although Senator Souza would like to address this issue separately at this time, Mr. McCrane stated that he believed the issues are inseparable. He also discussed other considerations, such as:

- consolidated elections;
- balancing elections and determining which ones can be held in concert;
- the multiplicity of entities and boundary lines;
- conflicts involving local taxing districts;
- costs of producing multiple ballots; and
- complications at polls resulting in running an election again; the cost of an election rerun in Eagle was $150,000.

Mr. McCrane referred to an earlier version of the bill wherein a provision required school districts to align their trustee zones with county precincts. He stated the clerks were willing to work with the school districts to implement the alignment. He felt it was important to delay this legislation until after the redistricting to avoid unintended consequences, due to the complexity of the situation (Attachment 1).
Senator Stennett expressed concern about training clerks and poll watchers given the complication of lines and the distribution of the right ballots. She asked if it is possible to train clerks to handle the complexity of different ballots. Mr. McCrane replied there is time. He also noted there are technological tools available to use on a limited basis. The infrastructure is not available to use these tools at the precinct level.

Senator Hagedorn inquired as to who sets the trustee zones. Mr. McCrane responded the school districts set those zones. Senator Hagedorn queried if, in cases where there is conflict, the school districts could reset their trustee zones to align with the precincts. Mr. McCrane stated the IAC has advocated for this; but, whichever way the legislation is settled, the redistricting will still need to be done with consideration of both the school districts and the precincts.

Senator Vick asked how Caldwell School District's levy election was different from the school board election. Mr. McCrane explained trustee elections are based on sub-zones; levies are voted on by taxing districts. Senator Vick asked if an option would be to use two different ballots rather than a multi-face ballot. Mr. McCrane replied that is not feasible. He explained there are 11 counties that require paper ballots; ballots are very expensive. Most counties have many variations, so there would be greater expense, greater risk of error, and a longer turn-around time.

Harold Ott, Director of Idaho Rural Schools Association, representing the Idaho Association of School Administrators (IASA), agreed with the need to address the low voter turnout, but his concern was different.

Vice Chairman Hagedorn passed the gavel back to Chairman Siddoway.

Mr. Ott, in referring to Page 1, Lines 39 and 40, S 1280, explained that new trustees assume office January 1 following the election. He noted one of their primary responsibilities during their first month in office is to evaluate the superintendent. The evaluation is based on the superintendent's leadership, direction, and performance in implementing the continuous improvement plan in the school district. He shared his concern that superintendents would be evaluated by someone who may not know the plan or the goals established with the board, and the board’s previous actions. Senator Winder asked for the average size of a school board. Mr. Ott stated in most districts, the number is five; some have seven.

Senator Winder inquired how many new trustees come on at any given time. Mr. Ott indicated there could be up to three new members at one time. He stated that would be rare, but is possible. Senator Winder suggested, in most cases, there will be a majority of experienced board members. Mr. Ott answered he believed that to be true.

Chad Houck, Deputy Secretary, SOS, indicated SOS saw this as a policy position; as such, the official position is neutral. Mr. Houck noted that this legislation may have implications for the balance of consolidated elections.

Senator Souza stated the superintendent evaluation is not required by the Idaho Department of Education until June, which allows time for the new member to be oriented. She stated her belief that the county clerks are professionals and will find ways to implement this process. After the census, it will be possible to create a better situation for the boundaries. Senator Souza reiterated the goal is to improve our quality of education by increasing voter turnout.

Senator Hagedorn moved to send S 1280 to the floor with a do pass recommendation. Senator Lodge seconded the motion.
Senator Hill expressed appreciation for the hard-working county clerks. He stated it will be hard for them, but it can be done; he stated he will support the motion because voter turnout is a challenge.

Senator Winder remembered a recall election in West Ada School District that demonstrated small groups in low turnout elections could substantially change the makeup of the school board, thereby adversely affecting school board decisions. He felt a larger turnout would give a broader cross section of voters. He stated he will support the motion.

Senator Stennett expressed appreciation for Senator Souza and the need for increased voter turnout. She is concerned about fiscal responsibility and adequate training. She stated she will not support the motion.

Senator Vick stated the only elections he has missed were two May elections because he forgot the elections were to occur. He stated he will support the motion.

The motion carried by voice vote.

RS 25913 STATING FINDINGS OF FACT relating to a time zone change in Northern Idaho.

Senator Vick explained this legislation is before the Committee late because of difficulties with the fiscal note. It is a resolution that will affect Idaho’s ten northern counties.

MOTION: Senator Hill moved to send RS 25913 to print. Senator Winder seconded the motion. The motion carried by voice vote.

ADJOURNED: Chairman Siddoway adjourned the meeting at 9:15 a.m.
2018 ISBA RESOLUTION NO. 9

MOVE SCHOOL BOARD TRUSTEE ELECTIONS TO NOVEMBER OF ODD YEARS

WHEREAS, school board trustee elections have historically been, and should remain, non-partisan;

WHEREAS, many school districts that hold school trustee elections in May are satisfied with the date for those elections and believe the results reflect the will of the people in their communities;

WHEREAS, there has been an ongoing effort in the Legislature to change the dates of school board elections with the stated purpose of increasing voter turn-out;

WHEREAS, including school board trustee elections in even numbered years, associated with a general election in November, significantly increases the chances of school board elections becoming associated with partisan politics in some communities;

WHEREAS, scheduling school board trustee elections in odd numbered years in November, associated with a general election, will result in these elections being at the same time as elections for city council, mayor, and other non-partisan elections; and

WHEREAS, having school board trustees take office on January 1 at the same time as other non-partisan elected officials would allow them the ability to be involved in the drafting of the new Continuous Improvement Plan and budget for the next fiscal year as well as participate in negotiations for the upcoming year;

NOW THEREFORE BE IT RESOLVED, that the Idaho School Boards Association work with the Idaho Legislature to craft legislation to change the dates of school board elections to odd numbered years in a November general election and will oppose any effort to include such elections in even numbered years.

NOW THEREFORE BE IT FURTHER RESOLVED, that if the date of school board elections is moved to November of odd numbered years, the newly elected trustee shall take office on January 1 to allow them to participate in teacher contract negotiations, budget meetings, and continuous improvement planning meetings.

STATEMENT OF PURPOSE

For the past several years, the Idaho Legislature has considered legislation that would move school board trustee elections to the general election date in November of even years. The stated purpose for moving those elections is to increase voter participation. School board trustees believe that trustee elections need to remain non-partisan. The Idaho School Boards Association would like to work with the Legislature to find a date that would increase voter turnout and still provide trustees with a non-partisan election.

In addition, should the election date move to November of odd years, school board trustees believe that the newly elected members should take office on January 1. This would allow new
board members to be involved with teacher contract negotiations, budget setting, and continuous improvement planning for the following school year.

Submitted by Caldwell School District No. 132

RECOMMENDATION OF THE ISBA EXECUTIVE BOARD: DO PASS

Starr Olsen of the ISBA Executive Board will address the Executive Board’s recommendation to the membership at the Business Session of the Annual Convention.

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<td>MINUTES</td>
<td>The minutes of February 7, 2018</td>
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<td>APPROVAL:</td>
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<tr>
<td>RS26130C1</td>
<td>A JOINT RESOLUTION PROPOSING an amendment to Section 2, Article iii, of the</td>
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<td>Constitution of the State of Idaho, relating to the reapportionment commission.</td>
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<td>HCR 48</td>
<td>STATING FINDINGS OF THE LEGISLATURE honoring Marilyn Shuler.</td>
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<tr>
<td>S 1313</td>
<td>RELATING TO SELF-DEFENSE to include in code the Castle Doctrine and Stand Your Ground principles recognized by case law and jury instructions.</td>
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**COMMITTEE MEMBERS**
- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge
- Sen Vick
- Sen Anthon
- Sen Stennett
- Sen Buckner-Webb

**COMMITTEE SECRETARY**
- Twyla Melton
- Room: WW42
- Phone: 332-1326
- email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, February 26, 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 Senate State Affairs Committee (Committee) to order at 8:03 a.m. with a quorum present.
MINUTES APPROVAL: Senator Hill moved to approve the Minutes of February 7, 2018. Senator Vick seconded the motion. The motion carried by voice vote.
RS 26130C1 A JOINT RESOLUTION PROPOSING an amendment to Section 2, Article III, of the Constitution of the State of Idaho, relating to the Idaho Commission for Reapportionment (Commission).
Representative Loertscher, District 32, stated there have been two redistricting commissions in the last two cycles; another one will soon be implemented. RS 26130C1 will increase the number of members on the Commission to nine and create a method for choosing the ninth member. He pointed out there have been an even number of commissioners and the State has experienced a problem of deadlock on many occasions. The ninth member will be elected by The Legislative Council.
Senator Stennett commented the commission is held to a tight standard by the Supreme Court. She noted having an even number supports parity. She asked what would be corrected with this RS, as things have been working with the current system. Representative Loertscher replied having a tiebreaker will allow the process of drawing boundaries to move faster.
Senator Vick asked why it would not be more expensive to have nine commissioners. Representative Loertscher responded it would be more expensive, but that can be adjusted. He predicted it will be a little more expensive.
MOTION: Senator Hill moved to send RS 26130C1, with an adjustment to the fiscal note, to print. Senator Lodge seconded the motion. The motion carried by voice vote.
Senator Stenett was recorded as voting nay.
HCR 48 STATING FINDINGS OF THE LEGISLATURE honoring Marilyn Shuler.
Representative Ilana Rubel, District 18, presented HCR 48 to honor Marilyn Shuler. Representative Rubel declared that Ms. Shuler, who passed away last year, was a great proponent of children's rights and human rights in Idaho. As a result of childhood polio, Ms. Shuler had experienced social isolation which led her to have a deep sense of empathy. Representative Rubel related that Ms. Shuler committed her life to addressing discrimination. Representative Rubel detailed Ms. Shuler's contributions as follows:
• kindergarten teacher;
• supporter of public kindergarten across Idaho;
• advocate for hard-to-place foster children;
• founder of the John D. Shuler Memorial Fund, which created opportunities such as music lessons, summer camps, and letter jackets for foster children;
• director of the YMCA; and
• co-founder of the Idaho Anne Frank Human Rights Memorial.

Representative Rubel stated Ms. Shuler served Idaho in many other ways and was known as Idaho’s foremost human rights champion. She served for 20 years as Director of the Idaho Commission on Human Rights. Representative Rubel concluded by requesting that the Legislature recognize and honor the many accomplishments and contributions made by Marilyn Tate Shuler to the people of Idaho.

MOTION: Senator Buckner-Webb moved to send HCR 48 to the floor with a do pass recommendation. Senator Lodge seconded the motion. The motion carried by voice vote.

S 1313 RELATING TO SELF-DEFENSE to include in Idaho Code the Castle Doctrine and Stand Your Ground principles recognized by case law and jury instructions.

Chairman Siddoway requested that those testifying keep their comments short to avoid imposition of a time restriction.

Senator Todd Lakey, District 12, indicated S 1313 dealt with the right to defend one’s self and others, as well as a person’s place of habitation, place of business, and occupied vehicle. He explained the legal concepts guiding Idaho laws are described generally as the Castle Doctrine or Stand Your Ground Doctrine (SYG). They have long been recognized in case law and in jury instruction, which are established by the judicial branch. Senator Lakey perceived these principles should be established and maintained in Idaho Code.

Senator Lakey observed that development of the statutory language needed to be a careful effort to establish the principles in Idaho Code while not harming the years of good case law and precedent. He advised that the amount of change was limited, and existing Idaho language and concepts were used to incorporate the principles and language from Idaho case law and jury instruction into Code. Senator Lakey noted that legislative intent language is included; he identified the entities who collaboratively developed the language. Senator Lakey detailed the provisions of the bill including:

• amending Title 18 which deals with justifiable homicide, and Title 19 which deals with criminal procedure, by adding "place of business or employment", and "an occupied vehicle";
• adding "a person who unlawfully and by force or by stealth enters or attempts to enter . . . is presumed to be doing so with the intent to commit a felony"; and
• adding definitions for "habitation", "place of business or employment", and "vehicle".

Senator Lakey stated S 1313 repeals old language in Idaho Code § 18-4010 which deals with the archaic "bare fear" and replaces it with the reasonable person standard.
Senator Lakey referred to Idaho Code § 19-201A stating the legislative intent language continues applying Idaho principles of case law and jury instruction. He noted the changes Idaho Code § 19-202(2) adds that a person protecting his/her family or possessions may use sufficient force as would appear to be reasonably necessary to prevent the threatened injury. Senator Lakey clarified this judgment would be from the viewpoint of a reasonable person placed in the same position, without the benefit of hindsight.

In referring to Page 3 of the bill, Senator Lakey indicated that a defensive person is not required to wait and see if the danger is apparent or real, and is not required to retreat from any place the person has a right to be. He identified language which states this does not apply to inmates as they interact with jail or prison staff acting in their official capacity. Senator Lakey pointed out the burden of proof is on the prosecution. He then identified the conditions under which a person can use force or deadly force.

Senator Winder referred to calls in opposition to this bill. Some said it needed to be stronger, closer to H 444. He asked Senator Lakey to explain the differences regarding the reasonable person standard. Senator Lakey reiterated the reasonable person designation in S 1313 comes from existing Idaho Code and jury instruction. He stated he would get an explanation of the principle as used in H 444 to Senator Winder.

Senator Lakey judged H 444 as using language from other states, which weaken the protections in Idaho under existing case law. He pointed out some of the differences as:

- The removal of the ability to defend one's property if the person is knowingly engaged in unlawful activity;
- The allowance for a parent or grandparent to remove a child from a person's home;
- The utilization of language indicating a person could go after someone for past actions;
- The denial of law enforcement to engage in typical activities such as separating and talking to people in order to assess the situation; and
- The removal of the ability for law enforcement to detain.

Senator Lakey considered that S 1313 takes a more common sense approach under Idaho case law.

Senator Anthon referred to the use of "curtilage" in S 1313 and asked if H 444 includes defending the yard. Senator Lakey replied that it does not encompass curtilage, but only uses the term "porch".

Senator Stennett asked for clarification of the section regarding "occupied vehicle". Senator Lakey replied that breaking into an occupied vehicle is akin to breaking into a home. Defending an unoccupied car is defending property and falls under a different part of Idaho Code. Senator Stennett asked if this allows a person inside a vehicle to shoot someone outside the vehicle who is trying to break in. Senator Lakey answered the person would be able to use a firearm for defense.

TESTIMONY IN SUPPORT: Grant Loeb, Prosecuting Attorney, Twin Falls County, and Idaho Prosecuting Attorneys Association, stated S 1313 clarifies the law for citizens regarding definitions. It also supports Idaho tradition of case law and jury instruction, and explains the rights of the victim.
Brent Wright, Police Officer in Twin Falls, Idaho, and the Idaho Fraternal Order of Police (IFOP), stated the IFOP supports the bill because it clarifies the confusion that exists under current law and puts it in statute.

Richard Troudeau, Eagle, Idaho, explained why there are no assurances for non-prosecution with SYG only, and asserted that S 1313 gives that assurance.

Keely Hopkins, State Liaison for the National Rifle Association, observed S 1313 consolidated and codified practices that currently exist.

Mathew Faulks, Idaho State Rifle and Pistol Association (ISRPA), supports a clear statement of the law regarding Castle Doctrine and SYG. He identified issues the ISRPA believes need clarification.

Senator Winder noted the bill states "the person acting pursuant to this section may use any degree of force as would appear to be reasonably necessary to prevent the threatened injury." Such language allows more than simply shooting someone.

Seth Rosquist, Idaho Second Amendment Alliance (ISAA), indicated the ISAA perceives a need to strengthen self defense laws in Idaho. He stated S 1313 is an effort to do so, but it needs to be stronger. He stated the ISAA would support this bill with some amendments (see Attachment 1).

TESTIMONY IN OPPOSITION:

Eric Leih felt S 1313 would cause more problems by reducing the choice to use a firearm to a matter of opinion.

Terry Pickens-Manweiler believes the current law to be adequate. Ms. Pickens-Manweiler judged some provisions of S 1313 to challenge judicial, prosecutorial defense, and law enforcement decisions in terms of justifying a homicide. She felt the use of a legal presumption to be a serious concern.

Jennifer Laforge, Moms Demand Action (see Attachment 2).

Senator Hill requested the source for statistics indicating a rise in justified homicide rates in other states that had enacted similar legislation. Ms. Laforge replied she was referring to Florida and would send the source for the statistics to him.

Diana David spoke as a gun owner, a military family member, gun violence survivor, and a friend of others who have died from gun violence. Ms. David felt SYG laws have become a license to kill and puts everyone in danger. She declared Idaho already has laws allowing citizens to protect themselves. Senator Vick inquired if the shooters in the cases she knew of were convicted. Ms. David replied they were. Senator Vick commented that if they were found guilty, it didn't seem the law was the problem.

Nicole R. Brown, Moms Demand Action, Idaho Chapter explained the intensity of training given to military personnel who then must follow strict guidelines in determining the need for deadly force. She felt under, S 1313, civilians would be given more liberal guidelines with far less training, and would be allowed to make deadly force decisions (see Attachment 3).

Elana Story, Mom's Demand Action, focused on the unintended consequences S 1313 could have (see Attachment 4).

Melany Fliton Fowell asserted S 1313 encourages reckless and combative vigilantism. She surmised that S 1313 is not needed, because Idaho law already protects the right to defend one's life, family, and home with deadly force (see Attachment 5).
Kate Brusse, Moms Demand Action, stated responsible gun ownership can further the cause of preventing gun violence. She observed Idaho law already allows for the defense of families and homes, and recognizes the right to use self-defense in public. S 1313 expands the use of deadly force. Ms. Brusse expressed great concern regarding not waiting to ascertain whether the danger is apparent or real.

Gretchen Gringa spoke from a faith perspective, referencing Biblical teachings against killing. She commented that no public place is safe, and she referred to a Texas A & M University study showing no evidence that SYG laws deter crime; the study should, instead, such laws increase killing.

Kathy Greismeyer, Policy Director, American Civil Liberties Union, noted that much of her written testimony has been discussed previously. Ms. Greismeyer focused on homicide rates in states that have adopted SYG legislation, and the racial impact on racial disparity with SYG laws (see Attachment 6).

Nirmala Sandho, Southwest Chapter of National Organization for Women, stated S 1313 is unnecessary and could have serious unintended consequences. She claimed SYG laws distort the law, encourage escalation in violence rather than de-escalation, and cause a disproportionate negative effect in communities of color (see Attachment 7).

Stephanie Hansen, Moms Demand Action, expressed concern about the negative effect SYG laws have on people of color as she has a child adopted from Ethiopia (see Attachment 8).

Sarah Lowall, Reverend, Boise Unitarian Universalists Fellowship, and Interfaith Equality Coalition of Idaho, said S 1313 allows for too much misinterpretation. Reverend Lowall spoke of the need to follow faith-based tenets. She expressed concern that there would be tragic ramifications from the misinterpretation of a situation by a person in a high state of fear and anxiety.

Senator Lakey declared it is important that individuals act with good judgment in stressful situations. He felt acting on some people's feeling that there should be no Castle Doctrine or SYG laws in Idaho would mean repealing existing provisions we have had for over 100 years. Senator Lakey emphasized S 1313 puts existing case law and jury instruction into Idaho Code. Referring to Idaho Criminal Jury Instruction 1519, Senator Lakey noted it is not necessary to retreat, but one may stand his/her ground and use any means necessary to defend one's self or another person. He declared S 1313:

- does not change any laws,
- does not allow vigilante action,
- does not expand the scope of the current law except in the cases of employment and vehicle,
- does not create any new law regarding waiting to ascertain if a danger is apparent or real, as this is included in the McGreedy case, and
- does not create any new law, so statistics of increased homicide rates from other states do not apply.

Senator Lakey explained this bill is not to provide a deterrent, but to allow self defense. He felt it was important to maintain existing law. He compared some aspects of S 1313 and H 444, noting a problem with language and a lack of clarity.
MOTION: Senator Vick moved to send S 1313 to the floor with a do pass recommendation. Senator Anthon seconded the motion. The motion carried by voice vote. Senators Stennett and Buckner-Webb were recorded as voting nay.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 10:22 a.m.
Thank you, honorable members of the Senate State Affairs Committee.

My name is Seth Rosquist. I am the Chairman of the Board for the Idaho Second Amendment Alliance and I am speaking on behalf of the organization today.

For several years the Idaho Second Amendment Alliance and our members and supporters have been asking the Idaho legislature to significantly upgrade our self-defense laws.

Over 7,000 citizens have signed petitions for real Stand-Your-Ground and Castle Doctrine laws in Idaho, because our current protections just aren’t strong enough.

While we appreciate the efforts of some to try and put a solid Stand-Your-Ground law together in Senate Bill 1313, the bill falls far short of what citizens have petitioned their legislators to do.

Primarily, Senate Bill 1313 fails to provide adequate self-defense provisions in the following ways:

First, S.B. 1313 does not close the all-important Stand-Your-Ground loophole. Many legislators, prosecutors, and trial lawyers have claimed that Idaho’s current laws are sufficient enough, and that our case law and jury instruction already give us the ability to stand our ground. They also claim that we don’t have a duty to retreat. However, a simple review of case law over the last century will show that previous case law that was supposed to establish our stand-your-ground law, has been ignored and changed on several occasions.

In the most recent case from 2014 (State verus Iverson), the defendant stood his ground on his own driveway and used physical force to defend himself. The prosecutor completely ignored his right to stand his ground, and the judge and prosecutor both claimed that while the defendant had no duty to retreat, a “reasonable” person would have run away and therefore stand-your-ground was thrown out.

If S.B. 1313 becomes law, the statute will say you have the right to Stand-Your-Ground and no “duty to retreat,” however, the backdooring of evidence that a reasonable person would have run away will still remain. This loophole will remain open and must be closed.

Second, S.B. 1313 contains no criminal immunity. Criminal immunity is important for several reasons. It helps prevent anti-gun prosecutors from putting law-abiding gun owners on trial for defending their lives without any evidence to put them on trial in the first place. We have several cases in Idaho where innocent people are likely in prison because no criminal immunity exists.

Additionally, criminal immunity provides an avenue of restitution for citizens who are wrongfully taken to court and found “not guilty.” S.B. 1313 contains no portion of criminal immunity that over 90% of Idaho citizens recently polled are asking for in a bill that expands self-defense laws.

Finally, S.B. 1313 contains a very limited presumption of innocence. You see, this isn’t just about gun rights – this is about your right to defend yourself with deadly force. We don’t want to have all the details and difficult analysis that are in the last paragraph of HB 1313 - we want a
plain and simple presumption that the person acted reasonably. In other words, if the person is uninvited on your property or attacking you in place you have a right to be, you are the victim and the law presumes that you acted reasonably in defending yourself.

Our rights are under constant attack and Idaho is slowly becoming the next Oregon or Washington. The time may soon come that our ability to strengthen our laws will be greatly hampered as more anti-Constitution progressives move to our state.

In closing, despite what some may think, our current laws just aren’t enough, and we have case law to prove that our self-defense laws have gaping holes in them. S.B. 1313 will not strengthen our laws in any significant way and that is not what Idaho’s citizens have asked you to do.

Gun Owners of America, a well known no compromise national gun lobby, recently did an analysis of S.B. 1313 and another Stand-Your-Ground bill, H.B. 444:

Their legal team concluded, and I quote, “There are differences in the substance of the two bills. But the chief difference is that Senate Bill 1313 has no teeth. There is nothing to prohibit you from being arrested, detained, or prosecuted, even in the most obvious circumstances in which you are within your rights. Even something as simple as attorneys’ fees are missing from the weaker draft.” Close quote.

The Idaho Second Amendment Alliance would ask that S.B. 1313 be amended to include provisions as outlined above or put forward an alternative bill that does.

Thank you for your time.
Jennifer La Forge

Mr. Chair, members of the committee,

My name is Jennifer La Forge.

I’m here today as a mother and a teacher and a gun owner. Several years ago, when we were living in Las Vegas, my husband was home with a friend and could overhear our neighbors escalating a disagreement. Within minutes shots were being fired and some were hitting the front wall and front door of our home. Without any idea if we were being targeted or were just collateral damage my husband and our friend took cover on our interior stairway and waited it out. Feeling vulnerable after this event, we purchased a shotgun for our protection, so I completely empathize with the desire of anyone here to protect and defend themselves in the face of danger.

As a mother of two young girls, I’m concerned about the bill before you, because it actually increases the level of danger for innocent people while claiming to solve a problem we don’t have.

We don’t have a problem with allowing our citizens to legally defend our homes. We already have strong and comprehensive laws allowing us to do that.

We also don’t prosecute reasonable people who defend themselves outside of their homes in the face of danger.

Another problem Idaho doesn’t have right now is our homicide rate. But when other states have enacted similar laws they have seen their crime rates rise. My husband, and two daughters and I love the feeling of peace and safety and security we have here in Idaho and I would hate to see that ruined by passing an unnecessary law.

This bill creates problems for families in Idaho by creating a hazardous environment for innocent bystanders because it encourages recklessness in people who are already willing to engage in and escalate confrontation.

SB 1313 will not make Idaho safer for me, or my family. I would like you to vote no.

Thank you,
Jennifer LaForge

[Signature]
Testimony for SB 1313 -- Senate State Affairs -- Monday Feb. 26 @ 8am

Nicole R. Brown
1717 W. Brumback St,
Boise, ID 83702
hnnbrown@gmail.com
571-334-7927
RE: SB1313

Good Morning, Chairman Siddoway, members of the committee: Thank you for your time. I am Nicole Brown and I retired out of the Pentagon after 20 years as an Air Force Intelligence Officer.

SB 1313 would provide everyday citizens with broad deadly powers -- with no physical or mental vetting, no accountability or training, no requirements to de-escalate or use proportional force. There is no rigor in the wording of the bill.

In my opinion there is NO military equivalent to the civilian authorities granted in SB1313. The language of this bill legally authorizes civilians to use disproportional & deadly force much more freely and autonomously than lawful authorities given by the President to military personnel in combat zones.

All applicants to the US Army, Air Force, Marine Corps, and Navy have to meet mental, physical fitness, education, and solid lifestyle standards to even apply to “Boot Camp,” where they are all provided identical education and training to become a member of the US armed forces.

The Federal and International legal systems hold all US military personnel to the same legal standard whether they are a cook, tank driver, sniper scout, or a pilot; whether they hold the lowest or highest military rank. Orders and rules of engagement authorize the specific geographic location, time, types of weapons, number of personnel, movements of personnel; they specify use of deadly force in specific conditions only, targets are selected prior to combat.

A combat zone is not a free for all and great measures are taken to ensure that civilians don’t become unintended collateral damage.

The US military runs successfully because it has these carefully thought out standards, requirements, and training which apply equally to all personnel.

The same can not be said of this law. SB1313 creates a combat environment among civilians. Please vote NO on this reckless proposal.
Elana Story, Idaho Chapter Leader

Thank you Mr. Chairman and members of the committee. My name is Elana Story. I am here representing Moms Demand Action’s Idaho Chapter and I oppose Senate Bill 1313. I am a supporter of the second amendment and come from a family of multiple generations of proud and responsible gun owners.

I am here as a concerned mother of two beautiful children and a citizen concerned for all Idahoans. We are so blessed to live in an incredible state full of beauty and pride. I feel so fortunate to be able to raise my children in such an environment.

I want to thank you all for being public representatives and doing this tough work of creating laws. I have so much respect for you and the difficult decisions that you make every day. I think we can all agree that we want the best and safest Idaho we could possibly have. We are all here with a common goal to protect Idahoans from dangerous people. My concern with this bill is the unintended consequences it could have.

Idaho law already recognizes the right to self-defense and does not include a duty to retreat. On the surface, this bill might look technical and as though it’s not a big departure from Idaho’s current standard.

But SB 1313 leaves out crucial parts of our current longstanding self defense standard. Our current law prohibits someone from using deadly force if they are the initiator of the fight. And it prohibits someone from tracking down and shooting someone in revenge. SB 1313 does not prohibit these things.

This bill encourages people to “shoot first ask questions later.” I ask you - what kind of message does passing this bill send to Idahoans? It’s simply empowering people to shoot first, rather than deescalate a situation. Looking at other states that have implemented similar Stand Your Ground bills, we should expect that this bill will cause homicides in Idaho to increase. One study found that Stand Your Ground Laws create an additional 600 homicides per year. And in 2013 the Tampa Bay Times found that at least 26 children and teens had been killed in Florida Stand Your Ground cases since 2005.

A legislator I spoke to last week told me he doesn’t believe this changes much in the law. If that is the case, then why do we need it? Isn’t the perception of encouraging vigilantism enough of a reason not to pass this? This is a solution looking for a problem. We don’t currently have an issue where people are going to jail for defending themselves. Why would we pass an unnecessary law, especially when we know that the unintended consequences can be so deadly?

SB1313 puts innocent people at risk. These people could be my children, or my friends’ children, or your children and grandchildren. Or it could be me or you. It could put people who carry at higher risk, since they are already showing a potential "threat" of a deadly weapon. Bar
fights could now escalate to deadly shootings. My future teenage children could get into a fender bender which could escalate to a confrontation leading to a deadly shooting.

We live in a state that has a low homicide rate and, thank the lord, we are doing pretty well keeping our families safe. I pray that continues everyday, and can't help to feel this bill defeats that purpose. Please oppose SB1313 and keep our Idaho homicide rate low and all Idahoans safe.

[Signature]
Testimony for SB 1313: Senate State Affairs  
Monday Feb. 26 @ 8am

Melanie Flitton Folwell  
23 N. Roosevelt  
Boise, ID 83706  
melaniefolwell@gmail.com  
RE: SB1313

Good Morning, Chairman Siddoway, Members of the Committee: Thank you for the opportunity to testify this morning. This is difficult and worthy work and I applaud you for it.

My name is Melanie Flitton Folwell. I'm a fourth generation Idahoan, proud to be raising a fifth generation. I'm also a small business owner, community volunteer, and currently president of the Parent Teacher Organization at Whitney Elementary School.

I'm here today because of my love for my home state and its children, and my deep concern about the dangerous impact that SB1313 would have on Idaho.

SB 1313 urges the kind of reckless and combative vigilantism that will be deadly for our state's youth. We don't even need to speculate about the impact: Stand Your Ground laws have hurt children and teens in every state where they've passed. Homicide by gun increases. Overall crime remains unchanged. No one is safer, and more children are violently killed.

Everyone in this room was once a teenager. Many of us have teenagers of our own, or grandchildren who are teens, and I think we can all agree that every kid in Idaho deserves the chance to grow up, deserves the chance to move around their community without fear of being shot and killed, deserves a chance for a little bit of the youthful freedom that we all enjoyed.

Under the language of this bill, if a teenager is in the wrong place at the wrong time, or acting in a way that another person deems suspicious or threatening or criminal, they could be shot. In fact, this law would empower and protect vigilante shooters in public places.

I think of my own teen years, growing up in rural Caldwell, where summer nights would find my friends and I laughing and talking, walking along darkened neighborhood streets, maybe even toilet papering the occasional tree. We certainly never intended to scare anyone, but if we had, I wonder: would we have deserved to be shot at? Would we have deserved to die?

If Idaho law already protects the right to defend one's life, family and home with deadly force, why expand that law to a dangerous degree? Why increase the number of gun homicides in our great state? And why put our precious youth at unnecessary risk?

I implore you this morning to vote NO on SB 1313. Idaho doesn't need it, and some of our children won't survive it.

Thank you,  
Melanie Flitton Folwell
Testimony of Kathy Griesmyer

OPPOSE SB 1313: Stand Your Ground
Before Senate State Affairs Committee
February 26, 2018

The ACLU of Idaho stands before you in opposition to SB 1313 which aims to amend Idaho’s current justifiable homicide and self-defense statutes and instead introduces controversial “Stand Your Ground” (SYG) and “Castle Doctrine” gun law into Idaho Code. This bill would give an individual the right to use deadly force to defend themselves without a duty to retreat from a dangerous situation if the individual believes force is necessary to prevent their death or serious bodily injury. This raises serious concerns regarding increases in vigilante justice, loss of due process, and a rise in racial disparities regarding the application of SYG defenses.

First and foremost, SB 1313 is unnecessary. Idaho law currently recognizes one’s right to self-defense, and it does not include a duty to retreat. Even further - Idaho law already allows a person to use force—including deadly force—in self-defense whenever the use of force is reasonable under the circumstances. This reasonableness requirement gives Idahoans the ability to protect themselves while recognizing that it is always better to avoid taking a life if possible. Instead, SYG laws are associated with a clear increase in homicides and evidence strongly indicates that these laws do not deter crime.

SYG laws jeopardize the well-respected principle of due process. The most serious deprivation of liberty that a person can inflict is killing another individual. The irreversibility of a homicide means that an error discovered after a death has occurred cannot be corrected. By increasing the circumstances in which private individuals may use lethal force without fear of legal consequences, SYG laws increase the number of people who are killed without due process of law. For example, since the passage of Florida’s SYG law in 2005, the number of justifiable homicides has tripled, according to Florida Department of Law Enforcement data. In the five years before the law’s passage, Florida prosecutors declared “justifiable” an average of 12 killings by private citizens each year. In the five years after the law passed, that number spiked to an average of 36 justifiable killings per year. FBI statistics confirm similar increases in a number of other states with SYG laws. Prior to the passage of Georgia’s SYG law, prosecutors found “justifiable” an average of 7 killings by private citizens each year; since the law was passed, the average number is 14 killings a year. In Texas, the average was 26 “justifiable” killings a year.

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1 State v. McGreevy, 105 P. 1047, 1051 (Idaho 1909); see also State v. Iverson, 316 P.3d 682, 690 (Idaho Ct. App. 2014).
4 Fisher & Eggen, supra note 6.
5 Id.
6 Id.; Bloomberg: Stand Your Ground Has Made America Less Safe (MSNBC television broadcast, Apr. 11, 2012).
7 Bloomberg, supra note 98.

For questions or comments, contact Kathy Griesmyer, Policy Director, at 208-344-9750 x1204.
year; now the number averages 45 a year. Overall, there has been a 25 percent increase in justifiable civilian killings since 2005, when SYG laws began to sweep the nation.

SB 1313 also has the potential to endanger the lives of Black, Hispanic and other Idahoans of color across the state by exacerbating racial disparities and implicit bias. Research has consistently shown that Black people in particular are perceived to be more dangerous that White people. An Urban Institute study examining data from the Federal Bureau of Investigations Supplementary Homicide Report found that juries are more likely to find that a killing was justified when the shooter is white and the victim black. Conversely, when the victim was white and the shooter was not, the shooter is more likely to face legal consequences. For example, consider the Florida case of Marissa Alexander. She is a 36-year-old black mother of three and a domestic violence victim who was sentenced to 20 years in prison after a jury rejected her claim to a stand your ground defense. She had fired a warning shot into the air to scare off her abuser husband who had threatened her days after she gave birth to her daughter. She ended up serving almost half a decade in prison before being released earlier this year.

This racial disparity is detailed in a blog post that cites to an Urban Institute report by the same author, John Roman, published in July 2013, which concludes:

“According to a statistical analysis of homicides drawn from the Supplemental Homicide Reports between the years of 2005 and 2010, cases involving a white shooter and a white victim are ruled justifiable less than 2 percent of the time. If the shooter is black and the victim white, the rate of justifiable cases falls to below 1 percent. If, however, the shooter is white and the victim is black, the shootings are deemed justifiable 9.5 percent of the cases in non-Stand Your Ground states. In Stand Your Ground states, that rate jumps to about 17 percent. Now take a situation similar to the Zimmerman case, which involves a homicide between a shooter and victim, neither being law enforcement, both men, and a firearm used to kill. A little less than 3 percent of black shooter and white victim homicides are deemed justifiable, while white shooter and black victim homicides are ruled to be justifiable about 29 percent in non-Stand Your Ground States and almost 36 percent in Stand Your Ground states.”

Racial disparities are already well established in Idaho. According to the Sentencing Project, Idaho ranks 15th in the country for highest incarceration rates of Black prisoners per capita – despite Black community members only representing .80 % of Idaho’s total population. Idaho also ranks 2nd in the country for highest incarceration rates of Hispanic prisoners per capita – despite Hispanic community

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8 Id.
10 John Roman, Ph.D., Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report Data, Urban Institute, 6-10 (2013).
12 Id.
members only representing 12.3% of Idaho’s total population. We should be working to overcome racial disparities in Idaho, not exacerbating them by enacting legislation that will only further entrench divisions in our community.

With common law principles and current Idaho law, Idahoans already have the right to defend themselves with appropriate force in situations where they face imminent harm and safe retreat is not an option. SYG laws have nothing to do with legitimate self-defense, but instead open the door for violent, sometimes fatal, mistakes; unnecessary and avoidable escalation of overheated situations; and vigilantism. For these reasons, we ask you to vote no and hold SB 1313 in committee.

For questions or comments, contact Kathy Griesmyer, Policy Director, at 208-344-9750 x1204.
Mr. Chairman and members of the committee,

My name is Nirmala Sandhu, and I’m representing the members of the Southwest Idaho Chapter of NOW, the National Organization for Women.

I’m here today to speak in opposition to Senate Bill 1313.

Senate Bill 1313 is simply unnecessary and could have serious unintended consequences. A recent study by a Texas A & M University team found that states with Stand Your Ground laws actually increased the homicide rate by 7 to 9 percent compared to states that do not have this law. This suggests that Stand Your Ground laws make the cost of lethal force cheaper, thereby producing the opposite of a deterrent to murder.

Idaho law already recognizes a person’s right to use force, including deadly force, to defend one’s self whenever the use of force is reasonable under the circumstances. In addition, Idaho laws do NOT include a duty to retreat before using deadly force in self-defense, but the decision to kill someone instead of walking away has to be reasonable.

Senate Bill 1313 would distort the law to allow a person to shoot to kill in public, even when they could easily have walked away. This Stand Your Ground bill upends the traditional notion of self-defense because it explicitly allows people to shoot to kill an alleged assailant in public despite there being a clear and safe alternative.

The US military has strict Rules of Engagement that soldiers must follow when protecting themselves in war zones. The bottom line is that it our military feels it is always better to de-escalate potentially violent situations before someone is killed. Stand Your Ground laws abandon that core principle and encourage unnecessary violence by allowing everyday conflicts to escalate into deadly shootings.

And finally, as a person of color myself, I am particularly disturbed about the disproportionate effect Stand Your Ground laws have on communities of color. We would like to believe Idaho welcomes all but we know that this is not uniformly true as evidenced by the reactions of significant numbers of people in Twin Falls to the refugees there and the resurgence of white supremacist organizations throughout the country, including Idaho. Whites are already far
more likely to be found justified in killing blacks by 250% compared. But in Stand your Ground states, this figure jumps to an incredible 354%.

For these reasons, I am asking you to reject Senate Bill 1313.

Thank you.
Mr. Chair, members of the committee, my name is Stephanie Hanson.

I have 3 children. The youngest, my 11 year old daughter Josie, was adopted from Ethiopia. When I heard of the stand your ground bill, I thought to myself “Thank God she’s not a boy.”

“Stand Your Ground” laws disproportionately impact people of color, who, because of deep-seated implicit biases, are more likely to be considered “threatening.” In fact, studies show that white on black homicides are 11 times more likely to be deemed justifiable.

With a law that allows people to take the law into their own hands if they are feeling threatened, I fear the disproportionate impact this will have on the lives of black teenagers, primarily black boys, who people in our community may feel threatened by because of deeply ingrained stereotypes. Thank God I adopted a girl.

Josie’s middle name, the name given to my daughter by her birth-mom before she passed away is Bedilua, which in her native tongue of Amharic means “As Her Luck.” I testify before you today in hopes that Josie and other children born into this world with non-white skin tones do not have to rely on luck but rather can rely on the wisdom of this body to vote against a law which does not protect all children, and people, equally.

Along with all the other members of Idaho’s Chapter of Moms Demand Action, I ask you to vote NO on SB1313.

Thank you,

[Signature]
AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, February 28, 2018

SUBJECT | DESCRIPTION | PRESENTER
---|---|---
MINUTES APPROVAL: | Minutes of January 26, 2018 | Senators Winder and Anthon
 | Minutes of February 9, 2018 | Senators Hagedorn and Stennett
RS26268 | RELATING TO CONCEALED WEAPONS to allow certain members of the Idaho State Bar to provide instruction for enhanced concealed weapons courses. | Senator Potts
RS26174 | STATING FINDINGS OF THE LEGISLATURE to grant authority to finance a new facility on the Idaho State Hospital South campus. | Senator Bair
RS26265 | RELATING TO ALCOHOL to revise certain provisions related to licensing. | Senator Rice
S 1318 | RELATING TO CODIFIER’S CORRECTIONS to make various codifier and technical corrections to Idaho Code. | Katherine Gerrity, Legislative Services
H 544 | RELATING TO MANAGEMENT OF STATE FACILITIES to provide that rental rates for multiagency facilities provide for long-term maintenance and upkeep. | Representative Anderst and Senator Hagedorn

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge
Sen Vick
Sen Anthon
Sen Stennett
Sen Buckner-Webb
COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 28, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present. He announced a change in the agenda. At the request of the sponsor, the hearing for S 1318 will be rescheduled for Friday, March 2, 2018.

MINUTES APPROVAL: Senator Winder moved to approve the Minutes of January 26, 2018. Vice Chairman Hagedorn seconded the motion. The motion carried by voice vote.

Vice Chairman Hagedorn moved to approve the Minutes of February 9, 2018. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

MOTION: Senator Hill moved to send RS 26268, RS 26174, and RS 26265 to print. Senator Anthon seconded the motion.

Senator Stennett questioned why these RSs were before the Committee so late in the session.

The motion carried by voice vote.

H 544 RELATING TO MANAGEMENT OF STATE FACILITIES to provide that rental rates for multi-agency facilities provide for long-term maintenance and upkeep.

Vice Chairman Hagedorn, District 14, stated he is the Senate member of the Permanent Building Fund Advisory Council along with the cosponsor of H 544, Representative Anderst. Vice Chairman Hagedorn stated he has learned a great deal about how the State of Idaho takes care of its buildings. H 544 was brought to the Legislature by the Idaho Department of Administration. The objective of the bill is to include long-term maintenance costs for State-owned buildings in the lease rates of those buildings. Currently, those maintenance costs are not included for any leased buildings.

The Division of Public Works estimates the Capitol Mall deferred maintenance currently totals approximately $22.2 million. It is necessary to increase the lease rates to include those deferred maintenance costs. The Permanent Building Fund does not cover these costs at current rates. Vice Chairman Hagedorn projects there will be future bills for other buildings the State owns, in addition to any it may purchase.
Senator Vick asked, if the deferred maintenance is $22 million, how that amount will be covered by the $1.5 million per year shown in the fiscal note. Vice Chairman Hagedorn responded that it would take time. He used the Capitol Mall as an example; he listed some of the leases involved with that property and how those leases are drafted.

MOTION: Senator Vick expressed his opinion that it was not good stewardship to let buildings fall into disrepair. Senator Vick moved to send H 544 to the Senate floor with a do pass recommendation. Senator Anthon seconded the motion.

Chairman Siddoway asked if "fund" should be "funds" in the fiscal note. Vice Chairman Hagedorn agreed, because dedicated funds and federal funds are included. Senator Hill suggested correcting a misspelled word. Chairman Siddoway stated he had already noted the omission and it was being corrected.

The motion carried by voice vote.

ADJOURNMENT: There being no further business, Chairman Siddoway adjourned the meeting at 8:10 a.m.

___________________________  ___________________________
Senator Siddoway                  Twyla Melton
Chair                              Secretary
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<thead>
<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
<th>PRESENTER</th>
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<tbody>
<tr>
<td>MINUTES APPROVAL:</td>
<td>Minutes of a February 16, 2018</td>
<td>Senators Hill and Vick</td>
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<tr>
<td>S 1318</td>
<td>RELATING TO CODIFIER'S CORRECTIONS to make various codifier and technical corrections to Idaho Code.</td>
<td>Katherine Gerrity, Legislative Services</td>
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<tr>
<td>UNANIMOUS CONSENT REQUEST:</td>
<td>A UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee (Committee) to print the following RSs and refer them back to the Committee:</td>
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<td>RS26192</td>
<td>A Resolution Rejecting Docket No. 07-0901-1701.</td>
<td>Senator Patrick</td>
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<tr>
<td>RS26193</td>
<td>A Resolution Rejecting Docket No. 07-0401-1701</td>
<td>Senator Patrick</td>
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<tr>
<td>RS26276</td>
<td>RELATING TO PHARMACIES to establish a Pharmacy Benefit Manager Transparency Act.</td>
<td>Senator Patrick</td>
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<td>RS26277</td>
<td>RELATING TO CAMPAIGN FINANCE to promote public confidence in and openness in government and to avoid secrecy by those giving financial support.</td>
<td>Senator Lodge</td>
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<td>RS26281</td>
<td>STATING FINDINGS OF THE LEGISLATURE to authorize the Legislative Council to appoint a committee to continue the study related to campaign finance reform.</td>
<td>Senator Lodge</td>
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<tr>
<td>SCR 140</td>
<td>STATING FINDINGS OF THE LEGISLATURE to finance a new skilled nursing facility on the Idaho State Hospital South campus.</td>
<td>Senator Bair</td>
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<tr>
<td>S 1331</td>
<td>RELATING TO CONCEALED WEAPONS to provide that certain members of the Idaho State Bar may provide certain instruction.</td>
<td>Senator Potts</td>
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<tr>
<td>H 486</td>
<td>RELATING TO THE STATE HISTORICAL SOCIETY to amend Idaho Code § 67-4112 to revise a definition.</td>
<td>Janet Gallimore, Executive Director, Idaho Historical Society</td>
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<tr>
<td>H 606</td>
<td>RELATING TO THE OPEN MEETINGS LAW to revise the definition of &quot;Public Agency&quot;; repeal Idaho Code Section 74-202 regarding Open Public Meetings; and adding a new Idaho Code Section to provide definitions for Open Public Meetings.</td>
<td>Representative Loertscher</td>
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</table>

*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*
COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

Sen Vick
Sen Anthon
Sen Stennett
Sen Buckner-Webb

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 02, 2018
TIME: 8:01 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:01 a.m. with a quorum present.
MINUTES APPROVAL: Senator Hill moved to approve the Minutes of February 16, 2018. Senator Vick seconded the motion. The motion carried by voice vote.

S 1318 RELATING TO CODIFIER’S CORRECTIONS to make various codifier and technical corrections to Idaho Code.
Katherine Gerrity, Legislative Services Office (LSO), stated S 1318 is LSO’s annual codified correction bill that proposes to revise various code references and correct grammatical errors.

MOTION: Senator Hagedorn moved to send S 1318 to the floor with a do pass recommendation. Senator Lodge seconded the motion. The motion carried by voice vote.

A UNANIMOUS CONSENT REQUEST from the Commerce and Human Resources Committee to print the following RSs and refer them back to the Committee.
RS 26192, RS 26193 Senator Patrick, Chairman, Commerce and Human Resources Committee, noted RS 26192 and RS 26193 are resolutions to reject Docket No. 07-0901-1701 and Docket No. 07-0401-1701.

MOTION: Senator Hagedorn moved to send RS 26192 and RS 26193 to print. Senator Vick seconded the motion. The motion carried by voice vote.

RS 26276 RELATING TO PHARMACIES to establish a Pharmacy Benefit Manager Transparency Act.
Senator Patrick advised that RS 26276 is a rewrite of a previous bill, and represents agreement among the Idaho Department of Insurance (DOI) and pharmacists. Senator Stennett asked if any of the parties objected to the new bill. Senator Patrick replied the representatives of the DOI and pharmacists are in agreement, but there are some companies which still have some concerns. He pointed out the bill is needed in order to discuss the issues with relevant parties.

MOTION: Senator Vick moved to send RS 26276 to print. Senator Anthon seconded the motion. The motion carried by voice vote.

RS 26277 RELATING TO CAMPAIGN FINANCE to promote public confidence and openness in government and to avoid secrecy by those giving financial support.
Senator Lodge stated RS 26277 is a result of the work of the Campaign Finance Working Group to identify ways to consolidate sunshine laws and increase openness, transparency, and public confidence in State campaign finance.

MOTION: Senator Hagedorn moved to send RS 26277 to print. Senator Anthon seconded the motion. The motion carried by voice vote.

RS 26281 STATING FINDINGS OF THE LEGISLATURE to authorize the Legislative Council to appoint a committee to continue the study related to campaign finance reform.

Senator Lodge explained RS 26281 will authorize the Legislative Council to reappoint members of the Campaign Finance Working Group as an interim committee to continue studying issues relating to campaign finance reform.

Senator Hill asked what work remains for the campaign finance working group. Senator Lodge replied the group would like to study local campaign finance to help small cities and counties and to consolidate data under the Office of the Secretary of State. She stated the group felt centralizing the data would make it easier for people to file for office and understand the rules and regulations involved.

MOTION: Senator Hill moved to send RS 26281 to print. Senator Stennett seconded the motion. The motion carried by voice vote.

SCR 140 STATING FINDINGS OF THE LEGISLATURE to finance a new skilled nursing facility on the Idaho State Hospital South campus.

Senator Bair stated he is representing some of Idaho’s most vulnerable citizens, the severely physically or mentally handicapped. He identified reasons and situations which cause them to be unable to care for themselves. He pointed out there are two places to care for these individuals: the Idaho State Hospital North (ISHN) and the assisted living facility in the Idaho State Hospital South (ISHS). Senator Bair indicated SCR 140 is a proposal for a new skilled nursing facility on the ISHS campus. He explained the building presently there was built in 1938 and is in serious disrepair; the structure houses 29 patients who cannot care for themselves.

Senator Bair explained the financial aspects of building the $35 million facility; he stated it has to meet the Joint Commission and Bureau facility standards. Additionally it must accommodate the special needs of the residents. He noted, because the Permanent Building Fund does not have $35 million, the best option for funding is through the bonding authority. Medicaid would pay for 71 percent of the cost and the State would pay 29 percent (Attachment 1).

Senator Stennett asked where patients would go during construction. Senator Bair replied there is enough land to build the new building and demolish the old one after construction. Senator Stennett inquired as to the cost to operate the facility. Senator Bair noted Idaho’s portion of the bond payment would be $650,000.

Tracy Sessions, Idaho Department of Health and Welfare (DHW), discussed:

- revenue from Medicaid,
- future need for spending authority,
- the need for the facility to be self-sustaining,
- opening the new facility with 36 beds and increasing to 59 at full capacity,
- the plight of veterans, and
- controlling the environment.
Senator Stennett asked for clarification concerning the facility being self-sustaining. Senator Bair replied the operating budget will be about $7 million per year. Spending authority from dedicated funds will be needed. An extensive discussion ensued regarding the level of need for the new facility, funding, the time and costs of the construction, and operating expenses.

MOTION: Senator Hagedorn moved to send SCR 140 to print. Senator Lodge seconded the motion.

Sara Stover, Health and Human Services Financial Management Analyst, Division of Financial Management, voiced support on behalf of the Governor's Office. She explained normally this proposal would be in the Governor's executive legislation package, but time constraints did not permit that inclusion. Senator Winder asked if this funding is set aside in the General Fund. Ms. Stover replied the State will have adequate funds for both the initial bond payments and the ongoing General Fund spending authority.

Senator Winder asked if there has been discussion regarding interest rates on the bonds. David Taylor, Deputy Director, Department of Health and Welfare, responded the projections used the current market rate as of February 2018, and added 1 percent which resulted in an average rate of 5 percent.

The motion carried by voice vote.

S 1331 RELATING TO CONCEALED WEAPONS to provide that certain members of the Idaho State Bar may provide certain instruction.

Senator Potts, District 33, specified S 1331 proposes to allow senior or emeritus members of the Idaho State Bar to teach enhanced concealed weapons courses.

Senator Stennett asked how many of the members of the Idaho State Bar teach the courses. Senator Potts explained an enhanced permit requires classroom training as well as legal training regarding the use of concealed weapons. He elaborated on emeritus status with the Idaho State Bar.

MOTION: Senator Anthon moved to send S 1331 to the floor with a do pass recommendation. Senator Lodge seconded the motion.

Senator Hill noted there are also other requirements. Senator Anthon explained that while instructors may not have active licenses with the Idaho State Bar, they could still be qualified to teach the courses.

The motion carried by voice vote.

H 486 RELATING TO THE STATE HISTORICAL SOCIETY to amend Idaho Code § 67-4112 to revise a definition.

Janet Gallimore, Executive Director, Idaho State Historical Society, detailed the authority and responsibilities of the Idaho State Historical Society (ISHS). She outlined the historical background of the ISHS, and provided its key statutory authorities (Attachment 2). Ms. Gallimore stated H 486 proposes to amend Idaho Code § 67-4112, clarifying the definitions section and the major program areas of responsibility of the ISHS.

Senator Vick asked what precipitated the change in definitions at this time. Ms. Gallimore replied it was an opportunity to codify the different responsibilities and authorities, having them all in one place for easy access and clarity.

Senator Winder inquired about the circumstances of historic properties in outlying areas. Ms. Gallimore explained how those properties were acquired and where they are located.
MOTION: Senator Buckner-Webb moved to send H 486 to the floor with a do pass recommendation. Senator Winder seconded the motion. The motion carried by voice vote.

H 606 RELATING TO THE OPEN MEETINGS LAW to revise the definition of "Public Agency"; repeal Idaho Code § 74-202 regarding Open Public Meetings; and add a new Idaho Code Section to provide definitions for Open Public Meetings.

Representative Tom Loertscher, District 32, introduced Roy Eiguren to present the bill. Roy Eiguren explained this is consensus legislation negotiated between the Governor, the Governor's Chief of Staff, Skip Smyser on behalf of the Idaho Press Club (IPC), and himself. Mr. Eiguren pointed out H 606 brings 28 agencies created by executive order of the Governor under the jurisdiction of the Idaho Open Meeting Law. He noted that the Governor's Cybersecurity Task Force and the Medal of Achievement Committee shall not constitute a public agency. Mr. Eiguren shared a document stating the Idaho Criminal Justice Commission (ICJC) is not required to comply with the Idaho Open Meeting Law (Attachment 3). Mr. Eiguren quoted the preamble to the Open Meeting Law statute.

Senator Stennett inquired how the Open Meeting Law related to the special committees, such as the ethics committees in the Senate and the House. Mr. Eiguren explained that legislative meetings are subject to the Open Meeting Law, except in extraordinary circumstances as provided specifically in the rules of either body.

Senator Lodge asked why the ICJC was singled out. Mr. Eiguren stated there was discussion between the ICJC and the Governor's Chief of Staff to decide what would be considered open. He explained the decision was to put those guidelines into ICJC's official policy (Attachment 3).

Senator Hill inquired if any of these agencies make binding decisions, or if they are all advisory in nature. Mr. Eiguren answered most are advisory, but some do make binding decisions. He added that Representative Loertscher and the Governor felt the change should be holistic.

Skip Smyser, Lobby Idaho and the IPC, spoke in support of H 606. He stated the IPC perceives that H 606 coincides with their goals for openness and transparency in government.

MOTION: Senator Vick moved to send H 606 to the floor with a do pass recommendation. Senator Anthon seconded the motion. The motion carried by voice vote.

ADJOURNMENT: There being no further business at this time, Chairman Siddoway adjourned the meeting at 9:05 a.m.

_________________________________________________________
Senator Siddoway, Chair

_________________________________________________________
Twyla Melton, Secretary

_________________________________________________________
Carol Cornwall, Assistant Secretary
The current nursing home building is 80 years old. The current Nursing Home building was built in 1938 and later retrofitted to become a nursing home. The original use of the building was a medical clinic and surgical hospital setting. This building has never been an ideal building for nursing home residents.

Profile of Residents of SHS Nursing Home

- Residents are involuntarily committed by the court or under a court ordered guardianship
- Suicidal actions or a demonstrated desire to hurt themselves
- Voiced Desire to Harm others or have taken the action to harm others
- Lacking Life Safety Skills demonstrating the inability to care for basic life functions such as eating, dressing, medical care and protecting themselves from environmental harm
- Diagnosed with a Behavioral, Cognitive and/or Mental Health Disorder
- Placement Failures including eviction from several community nursing homes impacting them to the point of needing State care to avoid becoming homeless
- Close Oversight of Psychiatric, Medical, Nursing and pharmaceutical care is required due to managing aging (65+ years) with multiple physical and cognitive complications

Resident needs that cannot be addressed in the current building

- Space needed to use adaptive equipment Many rooms do not have the space needed to use adaptive equipment for residents whose weight makes them immobile. Special equipment is needed to assist with bathing, moving these residents from a bed to a wheelchair and other activities of daily living
- Current building has 4 floors This building is multi floored which creates huge safety risks for resident evacuation in emergency situations
- Current building lacks food services All food must be prepared in a separate building and wheeled across the campus 3 times a day, the distance is longer than 2 football fields between the buildings. This has created a large challenge for many years. The food must remain at a constant temperature and you can imagine how the weather (rain, snow and wind) impact the ability to bring warm food to the residents for each meal
- Safe oxygen supply needed There is no capacity to supply oxygen from a central location into each patient bedroom. Using large oxygen tanks in the resident’s bedrooms is a safety risk but is currently the only option in the building
- Lack of full physical therapy program in the building The Nursing Home is required to have a physical therapy program for the residents. The nursing home currently must transport the elderly patients to another building or use limited equipment to address the residents needs
- Limited number of licensed Nursing Home beds Because of the limited number of nursing home beds at SHS, committed residents are placed in the hospital awaiting an opening for a nursing home bed. This places very vulnerable 65-year-old and older patients in a high-risk setting creating a safety concern

Risks and existing challenges we face with our current building

- Staff injuries There is increased exposure to workman’s compensation claims due the limited ability to use adaptive equipment for the residents
- Emergency backup power There is insufficient access to emergency backup power. Standards require a 24-hour generator back-up for all the medical equipment, electronic medical record and medication administration in the building, which it currently cannot provide
- Wi-Fi access The building needs to have uninterrupted access to Wi-Fi, currently this is not available in the building. This is vital to access the electronic medical record and safety/dress system
- Plumbing The plumbing in the current building is inaccessible for maintenance and repair. The main pipes run down concrete encased pillars. Many pipes in the current building have not been replaced in 80 years which most likely compromises the water quality
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<td><strong>Estimated mid-range cost, January 2017 - less $2 Million</strong></td>
<td><strong>$ 24,954,862</strong></td>
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<td><strong>1) Estimated inflation in construction costs</strong></td>
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<td><strong>Estimated construction/demolition costs</strong></td>
<td><strong>$ 28,822,867</strong></td>
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<td><strong>2) Estimated architecture/engineering costs</strong></td>
<td><strong>6.4%</strong></td>
<td><strong>$ 1,850,300</strong></td>
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<td><strong>3) Estimated furniture, fixture and equipment</strong></td>
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<td><strong>$ 750,000</strong></td>
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<td><strong>4) Estimated soft costs, soils report</strong></td>
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<td><strong>$ 150,000</strong></td>
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<td><strong>Estimated Project Funds</strong></td>
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<td><strong>Capitalized interest - 07/01/2018 - 06/30/2020</strong></td>
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<td><strong>Cost of Issuance</strong></td>
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<td><strong>Underwriter's Discount</strong></td>
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<td><strong>Additional Proceeds</strong></td>
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<td><strong>Total financed</strong></td>
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<td><strong>Est Initial one-time General fund bond payment - 07/01/2020</strong></td>
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<td><strong>$ 2,240,000</strong></td>
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<td><strong>Estimated increase in Ongoing SHS appropriation - starting in SFY 2021</strong></td>
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<td><strong>Federal Fund Authority (71%)</strong></td>
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<td><strong>General Fund Authority (29%)</strong></td>
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<td><strong>$ 650,000</strong></td>
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<td><strong>1) Estimated inflation:</strong> According to the Turner Building Index, the inflation rate for construction costs was 4.4% in 2014, 4.5% in 2015, 4.7% in 2016 and 5.0% in 2017. The trend is upward.</td>
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<td><strong>2) Estimated architecture/engineering costs:</strong> These are typically in the 6 to 8% range—the higher the costs, the lower the rate.</td>
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<td><strong>3) Estimated furniture, fixtures and equipment:</strong> $750,000 is a rough estimate.</td>
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<td><strong>4) Estimated soft costs, soils reports:</strong> The Idaho Building Safety calculator determines permit and plan review fees based on the value of the project. At a $35m project, such fees are estimated at $117,542. We rounded up to $150,000.</td>
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NEW SKILLED NURSING FACILITY IS NEEDED AT SHS IN BLACKFOOT

THE DEPARTMENT OF HEALTH AND WELFARE (DHW) WOULD LIKE TO PURSUE A CONCURRENT RESOLUTION ALLOWING US TO ENTER AN AGREEMENT WITH THE IDAHO STATE BUILDING AUTHORITY TO PROVIDE FINANCING TO CONSTRUCT A NEW SKILLED NURSING FACILITY ON THE STATE HOSPITAL SOUTH (SHS) CAMPUS.

ESTIMATED FISCAL IMPACT FOR THE PROPOSED CONCURRENT RESOLUTION IS $35M.

- This project is a priority on the Division of Public Works (DPW) list, but was not recommended for SFY 2019. Due to urgency and the cost of the project, DHW would like to pursue the possibility of bond financing for the project. If needed, DHW can leverage Medicaid for the vast majority of bond repayment.

- In SFY 2017, The Permanent Building Fund provided the department $75,000 to develop a preliminary plan for the new Skilled Nursing Facility. The preliminary plan is complete.

- In October of 2015, JFAC made an onsite tour of the current Nursing Home. JFAC members expressed an overwhelming concern for the current building and indicated support for a new facility.

- Despite numerous renovations there are inefficiencies and risks associated with the aging building. It's only a matter of time before the existing multi-story structure is no longer usable.

The following are potentially serious Health and Safety issues at our current facility:

- Evacuating residents - the multi-level building in a fire/emergency would be a long and difficult process, which is a major safety concern.

- The plumbing is obsolete - repair parts are no longer available.

- The building's thick concrete walls hinder SHS's wireless emergency response system - the system is used for staff and resident safety.

- Elevator safety is a concern – construction of the current building requires 2 elevators. It’s not uncommon for the elevator to stop unexpectedly between floors and residents have been caught in the closing doors

- There is no kitchen. Meals must be transported over uneven concrete sidewalks a distance exceeding two football fields (or, 751 feet). Insulated food cart weighs 600–800 pounds.

- Continued accreditation from Joint Commission - During our last several surveys with the Joint Commission and Bureau of Facility Standards who enforce CMS guidelines both have express ongoing concerns with the deterioration of the plumbing causing health concerns for residents. Restricted access to light through limited windows, fresh air and outdoor space.

The current skilled nursing facility built in 1938 is licensed for 29 skilled nursing beds. The planning study completed under DPW project proposes constructing a new, single-level skilled nursing facility with 36 skilled beds, and ability to accommodate approximately 59 beds in the future without additional construction.

The new facility is expected to provide:

- Increased safety for residents and staff
- A full-service kitchen
- Ability to expand bed space as Idaho continues to increase in population
- Continued accreditation from Joint Commission and Bureau of Facility Standards
Idaho Code, Title 67, Chapter 26, states that the Idaho State Historical Society is within the Department of Self-governing Agencies (67-2601).

Idaho Code 67-41 states that the agency shall:

- Identify, preserve, and protect sites, monuments, and points of interest in Idaho of historic merit (67-4114)
- Protect archaeological and vertebrate paleontological sites and resources on public land (67-4119)
- Govern the agency and administer the powers and duties of the board (67-4126)
- To appoint a director of the society as provided herein and advise him in the performance of his duties and formulate general policies affecting the society (67-4126 [1])
- Encourage and promote interest in the history of Idaho (67-4126 [2])
- Collect, preserve, and exhibit artifacts and information illustrative of Idaho history, culture and society. (67-4126 [3])
- Facilitate the use of Idaho records for official reference and historical research. (67-4126 [6])
- Be responsible for records management services for state government. (67-4126 [7])
- Accept archival material from governments (67-4126 [8])
- To establish such rules as may be necessary to discharge the duties of the society (67-4126 [10])
- Identify historic, architectural, archaeological, and cultural sites, buildings, or districts, and to coordinate activities of local historic preservation commissions. (67-4126 [14])
- Serve as the Geographic Names Board of the state (67-4126 [15])

Idaho Code 67-46 gives authority to the agency to carry out the preservation and protection of the state’s historic, archaeological, architectural, and cultural heritage resources.

Idaho Code 33-39 provides for the creation of an Idaho Archaeological Survey and designates the State Archaeologist as director.

Idaho Code 27-501 assigns responsibilities to the agency for consultation, determination of appropriate actions, and providing for re-interment of human remains that have been disturbed.

National Historic Preservation Act 54 U.S.C. § 300101 et seq., assigns responsibility to the state historic preservation officer for administration of the national historic preservation program at the State level.
Elyse Durand

My name is Elyse Durand, and I am representing myself. I am urging you to vote ‘no’ on House Bill 638. This bill is fundamentally unnecessary. Regardless of where you stand on abortions, you have to understand that they are one of the safest procedures. According to the Center for Disease Control, abortion procedures have over a 99% safety record. This means, that only .04% of the time, complications arise. Less than 1%. There is absolutely no need to waste funds scrutinizing abortion providers that have proven their ability to consistently provide safe and legal abortions.

Additionally, Idaho already requires abortion providers to report complications. In 2014, the state’s own data reports only one complication. Why are we wasting our time and efforts further scrutinizing a safe and legal medical procedure? The language and stigma surrounding abortions already produces enough shame. This bill would make abortions out to be a medically dangerous and risky procedure. It just isn’t.

Idaho has created many hurdles for women seeking safe and legal abortions. This regressive policy would force women to endure more governmental intrusion in her personal healthcare decisions. This politically-motivated bill goes far beyond what is required to improve public health. It is a waste of time, money, and resources for our state. Especially for a state that prides itself on its fiscally conservative policies, the willingness to justify spending funds on an unnecessary project is shameful.

Lastly, this bill seeks to criminalize and otherwise penalize reproductive healthcare providers from doing their jobs. I ask that you trust healthcare providers, and the evidence provided today, and vote no on HB 638.
## AGENDA

**SENATE STATE AFFAIRS COMMITTEE**  
**8:00 A.M.**  
**Room WW55**  
**Monday, March 05, 2018**

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<tr>
<th>SUBJECT</th>
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<tr>
<td>H 565</td>
<td>RELATING TO FIREARMS to provide that retired law enforcement officers may carry a concealed weapon in certain places.</td>
<td>Representative Scott</td>
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<td>H 611</td>
<td>RELATING TO TRANSPARENT AND ETHICAL GOVERNMENT to revise open meeting notices and agendas.</td>
<td>Representative DeMordaunt</td>
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*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**
- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge

**COMMITTEE SECRETARY**
- Twyla Melton
- Room: WW42
- Phone: 332-1326
- email: staf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 05, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Senators Hill, Winder, Lodge, Vick, Stennett, and Buckner-Webb
ABSENT/EXCUSED: Vice Chairman Hagedorn and 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

H 565 RELATING TO FIREARMS to provide that retired law enforcement officers may carry a concealed weapon in certain places.

Representative Heather Scott, District 1, explained that H 565 would provide an exemption for retired law enforcement officers who obtain the concealed carry card. Because mass shootings seem to be increasing, it may be necessary to increase the number of security enforcement officers. H 565 would create a group of trained, professional law enforcement officers who could potentially be used as the need arises.

The Law Enforcement Officers Safety Act (LEOSA), a United States (U.S.) federal law enacted in 2004 after the September 4, 2004 terror attacks, allows qualified retired law enforcement officers to obtain a retired law enforcement concealed weapons license. LEOSA allows them to carry a concealed weapon in any jurisdiction in the U.S., regardless of state or local laws, with certain exceptions (Attachment 1).

Representative Scott stated Idaho has an Idaho 218 card for retired law enforcement officers. This card requires annual renewal and an annual background check (Attachment 2). She explained what the current Idaho 218 card does, and the requirements to obtain and renew that card. Page 3 of Attachment 1 outlines the changes contained in H 565 that would apply to the Idaho 218 card.

Representative Scott commented that this bill included input from the Fraternal Order of Police and has been endorsed by the Idaho Chiefs of Police Association (Attachment 3), Idaho Sheriffs' Association (Attachment 4), and the Idaho Fraternal Order of Police (Attachment 5).

Senator Lodge asked if the ten year requirement was cumulative of all time employed in law enforcement, even if that time was spent with more than one agency. Representative Scott said it was an aggregate of ten years.

MOTION: Senator Lodge moved to send H 565 to the floor with a do pass recommendation. Senator Vick seconded the motion.

Mark Estess, Executive Director, Idaho Chiefs of Police Association, stated they conducted due diligence and determined H 565 is important for clarification. A significant number of retired law enforcement agents believed the license provided by this bill was already permissible under Idaho law. Mr. Estess introduced retired Chief Michael Johnson to provide an operational perspective.
Chief Michael Johnson, a retired chief of police, stated he was one of the retired officers who thought they had a legal right, under Idaho 218, to carry a firearm in different areas. Chief Johnson said he asked the resource officers at a school where he volunteers, if he had an Idaho 218 card, could he carry a concealed weapon. The answers he received varied greatly. Thus, it is vital to have the clarification this bill provides.

Senator Winder extended his thanks for Chief Johnson's years of service to the community and the State.

Representative Scott thanked Chief Johnson for his remarks. She stated H 565 is timely, and there is support from the law enforcement community. She asked for a yes vote.

**VOTE:**
The motion carried by voice vote.

**H 611**
RELATING TO TRANSPARENT AND ETHICAL GOVERNMENT to revise open meeting notices and agendas.

Representative Gayann DeMordaunt, District 14, stated H 611 will allow Idahoans to be adequately informed about the government's business; public business should be easily accessible and transparent to the public. Furthering transparency and accountability for every board and commission ought to be of primary importance. Representative DeMordaunt explained how H 611 affects agendas subject to the open meeting law: 1.) it requires the agenda to be posted and, if there is an electronic presence, it must be posted electronically; 2.) an item requiring a vote must be clearly identified as an action item; and 3.) the amendment requirement remains the same. A new section does not allow for final action to be taken on an agenda item that has been added after the start of a meeting unless there is a justified emergency. There are two critical reasons for increased transparency for open meeting laws: 1.) information citizens need to participate is available to them; and 2.) accountability of public officials.

Representative DeMordaunt stated there was no fiscal impact and stood for questions.

Senator Stennett asked if any non-governmental entities open to the public would fall within the purview of this legislation. Representative DeMordaunt answered those defined in the open meeting laws would be affected. Representative DeMordaunt read the full definition of public agency in Idaho Code § 74-202.

Senator Stennett responded that she was inquiring as to the potential exemptions.

Senator Buckner-Webb asked what the result would be for failure to comply with the requirements. Representative DeMordaunt said Idaho Code § 74-208 remains in effect. The procedures to contest a vote outlined in this section were applicable.

**MOTION:**
Senator Vick moved to send H 611 to the floor with a do pass recommendation. Senator Buckner-Webb seconded the motion.

Nick Veldhouse, Executive Director, Idaho Association of Highway Districts (IAHD), stated IAHD had some concerns with the fiscal impact. Government could possibly see an increase in expenses due to information technology costs, maintenance, cloud services, and archiving. There could also be an increase in legal costs due to challenges regarding adequacy of notice.

Senator Hill noted that H 611 is limited to a notice of meetings. Online notice is only required if the entity maintains an online presence through a website or social media platform. This type of posting only applies to public meetings; it is not for public notices. Mr. Veldhouse responded most rural districts may have a social media presence but do not have adequate knowledge to archive postings; as such, they would incur extra costs.
Representative DeMordaunt reiterated this legislation clearly states if the entity has an online presence, including a social media page, they could post an agenda within the meaning of the law. It does not expand the requirement to post an agenda to an entity that does not have an existing online presence. The most compelling aspect of this proposed legislation is that it empowers people to be more engaged in the process; she asserted the public's business ought to be as public as possible.

Chairman Siddoway asked if there would be any costs incurred in archiving these notices. Representative DeMordaunt responded the archiving requirements will remain the same because they did not change any requirement to maintain current postings. The hard copy will remain in the same location and no additional burden will be added.

**VOTE:** The motion carried by voice vote.

Chairman Siddoway welcomed a group of students attending the Committee meeting and asked Mathew Hampshire to identify the group. Mr. Hampshire stated they were the government class from Eagle High School. The course is taught by Mark Boatman.

**ADJOURNED:** There being no further business, Chairman Siddoway adjourned the meeting at 8:35 a.m.
Thank you, Mr. Chairman and Committee members, for your House Bill 565 which provides and exemption for retired law enforcement officers who obtain the concealed carry card under Federal House Resolution 218, the “Law Enforcement Officers’ Safety Act” to carry concealed weapons in currently restricted areas.

Mass shootings in society seem to be on the rise, especially in schools, as we saw this last week on campus in Michigan and the heart wrenching incident in Florida two weeks ago.

Because of events like this, there may likely be a push to put more security officers in schools. This bill deal with a whole group of trained professional law enforcement officers who could potentially be used as the need arises.

Peace Officers are among the most highly trained individuals in the nation in the proper & prudent use of firearms, including shoot/don’t-shoot scenarios for public safety.

They undergo psychological examinations for emotional stability and have extensive training in the proper use of firearms along with other lethal and nonlethal weapons.

The Law Enforcement Officers Safety Act (LEOSA) (HR 218) is a United States federal law, enacted in 2004 after 9-11

***It allows qualified retired law enforcement officers to obtain a “RETIRED LAW ENFORCEMENT CONCEALED WEAPONS LICENCE”.

This statute allows them to carry a concealed weapon in any jurisdiction in the United States, regardless of state or local laws, with certain exceptions.

Please take a look at the photocopied provided: (see attachment 2)

This is an example of what an Idaho 218 Card for retired law enforcement officers looks like. This card requires annual renewal and annual background checks.

This special Concealed Weapons License is issued by the sheriff of each Idaho county is typically issued to retired..qualified:

- State highway patrol
- U.S. marshals-FBI Agents - DEA Agents
- Bureau of Alcohol Tobacco and firearm Agents
• Border Patrol & ICE (Immigration & Customs Enforcement) Agents
• And retired municipal & county law enforcement officers.

What does qualified mean?

To be qualified for this card a retired law enforcement officer” must meet the following criteria:

• Be **retired and in good standing** from a government agency where they worked for a **minimum of 10 years** as a law enforcement officer. Our state statute requires 15 years of service. (HR218 federal in 2013 reduced this to 10 years, Idaho law still says 10)

• Their duties must have included **engagement or supervision** of the prevention, detection, investigation, prosecution or the incarceration of any person for any violation of law, **with the statutory powers of arrest or apprehension** under the Uniform Code of Military Justice.

• The officer also cannot be under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and cannot be prohibited by Federal law from possessing a firearm.”

**If** a retired officer meets these criteria and many others they must also **annually pass** “standards for training and qualification at the range, and an annual background check through the national NCIS center.

**Also,** the sheriff may require the applicant to complete additional training.

So as you can see, the special Idaho retired law enforcement concealed weapons license (or 218 card) is very different than Idaho’s regular concealed carry or enhanced carry card.

**Once this card is issued, to be legal,** the retired law enforcement officer must:

Carry at all times, both their agency issued law enforcement card and the 218 card.
Retired law enforcement officers with the 218 card and their requirements are defined under **IC 18-3302H**

**OK...that is the background..So what does House bill 565 do????**

**Idaho code 18-3309** already allows retired peace officers with the 218 card (designated in 18-3302H) to carry concealed firearms in **all areas** of public colleges and universities except dormitories, resident halls or buildings of public entertainment with seating of over 1000.

This bill allows the Retired LEO with the 218 card to carry concealed in these additional areas.

Retired law enforcement officers with the 218 card are removed from the list of those who are not allowed to carry in dorms or entertainment buildings on line 24 by removing 18-3302H folks (like other exempted individual.)

This allows for a qualified individula to not have to jump trough hoops during business hours only to do what they have been trained to do.

**Then we move to Idaho Code 18-3302D Possessing Weapons or Firearms on School Property.**

On page 3 of the bill there are a couple of technical corrections, and then the change on line 41, adds the **same exemption** for qualified retired law enforcement officers on k-12 school property.

So this means **if you are a 218 card carrier**, you can attend your child or grandchild’s school event or pick them up for school legally with your concealed weapon.

That is the extent of this proposed law allows.

Idaho law enforcement agencies are already overburdened with awesome responsibilities. Active Law enforcement officers can save lives, and qualified retired law enforcement officers can do the same. **We never know** when one of these individuals will be the first line of defense to stop a tragic incident when evil rear its ugly head

Both of these changes allow an extra level of security and protection for citizens at colleges and schools at no extra cost, when active law enforcement officers may not be immediately available.
This bill was brought by has been worked on by members of the Fraternal Order of police and has been endorsed by the Idaho Sheriffs Association, Fraternal Order of Police and the Idaho Chief’s of Police are in full support!

I stand for questions.
VIA HAND DELIVERY AND EMAIL

March 4, 2018

Representative Heather Scott
State Capitol
700 West Jefferson
Boise, ID 83720

Dear Representative Scott,

The purpose of this letter is to advise you that the Idaho Chiefs of Police Association’s ("ICOPA") membership fully supports House Bill 565.

Many of our members are retired law enforcement and we appreciate your efforts to promote and enhance public safety here in Idaho by sponsoring legislation that will allow retired law enforcement officers to carry concealed weapons on college campuses and elementary and secondary school property.

As we went through the process to understand the potential impact the legislation would have on our members we learned that a large percentage of retired officers have for years assumed that carrying a gun on school grounds was in fact legal under Idaho law.

Given the increased number of tragic school shootings we have seen across the nation and the series of threats and arrests we have seen here in Idaho schools over the past few weeks this legislation is timely, important and provides much needed clarification.

Retired law enforcement officers have specialized training, knowledge and requisite judgement that comes with many years of professional experience. As such they are in a uniquely qualified to help protect and keep Idaho students safe.

Please convey our public support for your bill to your colleagues in the legislature. Should you have any questions of me or the Idaho Chiefs of Police Association, please let me know.

Respectfully,

Mark H. Estess
Executive Director

cc: Craig Kingsbury, Chief of Police, Twin Falls Police Department, President, ICOPA
This card shall be used only for purposes as stated on the face of this card.

H.R. 218 - The Law Enforcement Officers Safety Act of 2004

Retired Peace Officer Compliance Certification

The bearer attests and avails Department records indicate, that he/she meets the employment requirements of 18 USC, Section 926(b), and is therefore a qualified retired law enforcement officer for the purpose of carrying or concealed firearm.

Failure to carry a concealed weapons license when you carry a concealed weapon may result in your arrest, unless you are an Idaho citizen, age 21 or older, and otherwise qualified to carry without a license.
February 22, 2018

Representative Heather Scott
State Capitol
700 W. Jefferson
Boise, ID 83720

Dear Representative Scott,

The purpose of this letter is to advise you that the Idaho Sheriffs' Association's membership voted at our February 8th, 2018 conference to support House bill 565.

Idaho sheriffs appreciate your efforts in enhancing public safety by sponsoring legislation that will add retired law enforcement officers to those who can carry concealed weapons on college campuses and elementary and secondary school property. Considering the number of school shootings occurring around the country, this added layer of protection may become valuable in the future in stopping a tragic incident.

Please convey our support for your bill to members of the legislature and if you have any questions of me or Sheriff's Association membership, don't hesitate to ask.

Sincerely,

Vaughn Kileen
Executive Director

Cc: Sheriff Chris Goetz, ISA Legislative Chair
    Sheriff Kieran Donahue, ISA President
    Mike Kane, ISA Lobbyist
March 5th, 2018

RE: Idaho FOP Support of House Bill 565 – Retired Law Enforcement Concealed Carry

The Idaho State Lodge of the Fraternal Order of Police, consisting of over 1800 members statewide who are active and retired Law Enforcement, supports HB565 allowing qualified Retired Law Enforcement Officers who obtain the Retired Law Enforcement Concealed Weapon Permit to carry a firearm in all places active Law Enforcement can carry. Retired Law Enforcement officers who obtain the Retired CWP have a yearly requirement for yearly renewal and firearm qualification, which along with their extensive training and experience through years of service as a Peace Officer is significantly more than most average citizens in Idaho.

Law Enforcement relies on Idaho’s citizens to report criminal and suspicious activity when it happens. Among those citizens are the men and women who proudly served their own communities as a Peace Officer and continue to apply their years of experience in everyday life recognizing dangerous activity that otherwise would go unnoticed to the untrained eye. These retired officers are among our children at public schools and college campuses all over Idaho and have the ability and desire to react to danger when needed. For our active Law Enforcement Professionals, these retired officers are an invaluable asset that can engage danger or react to save lives at the very moment it happens.

Retired Law Enforcement that takes the time to obtain the Retired Law Enforcement Concealed Weapon Permit and upkeep on their skills should be allowed to carry their concealed firearm everywhere an active Law Enforcement Professional can. Having the ability to do so strengthens our communities by taking advantage of these willing citizens who proudly served in Law Enforcement, retired with honor, and continue to be a trained watchful eye everywhere they go.

The Idaho State Lodge of the Fraternal Order of Police supports House Bill 565

Sincerely,

Bryan Lovell
President, Idaho Fraternal Order of Police

Building On A Proud Tradition
AMENDED AGENDA #1
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Wednesday, March 07, 2018

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<th>SUBJECT</th>
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<tbody>
<tr>
<td>MINUTES APPROVAL:</td>
<td>Minutes of February 28, 2018</td>
<td>Senators Lodge and Buckner-Webb</td>
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<tr>
<td>UNANIMOUS CONSENT:</td>
<td>A UNANIMOUS CONSENT REQUEST from the Senate Commerce and Human Resources Committee regarding the Barber and Cosmetology Services Act.</td>
<td>Senator Patrick</td>
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<tr>
<td>H 605</td>
<td>RELATING TO ALCOHOL to provide for licenses issued pursuant to Idaho Code Section 23-948.</td>
<td>Representative Dorothy Moon</td>
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<tr>
<td>HCR 53</td>
<td>STATING FINDINGS OF THE LEGISLATURE to honor and commemorate Michael Patrick Nugent for his years of service.</td>
<td>Senator Buckner-Webb</td>
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<tr>
<td>RS26313</td>
<td>STATING FINDINGS OF THE LEGISLATURE to authorize the Legislative Council to appoint a committee to study issues related to information technology.</td>
<td>Senator Martin</td>
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If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov
DATE: Wednesday, March 07, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:01 a.m. with a quorum present.

MINUTES APPROVAL: Senator Lodge moved to approve the Minutes of February 28, 2018. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

UNANIMOUS CONSENT REQUEST: A UNANIMOUS CONSENT REQUEST for RS 26295 from the Senate Commerce and Human Resources Committee regarding the Barber and Cosmetology Services Act.

MOTION: Vice Chairman Hagedorn moved to send RS 26295 to print. Senator Anthon seconded the motion. The motion carried by voice vote.

H 605 RELATING TO ALCOHOL to provide for licenses issued pursuant to Idaho Code § 23-948.

Representative Dorothy Moon, District 8, explained H 605 allows for the transfer of a liquor license associated with a waterfront property, even if the waterway has changed status since the original license was issued. She explained Idaho Code § 23-948 requires an average of 11,000 cfs flows past the property for six months out of a year. The remedy adds subsection (d), page 2, lines 6-9 to current code. She asked for a do pass vote.

MOTION: Senator Anthon moved to send H 605 to the floor with a do pass recommendation. Senator Vick seconded the motion.

Senator Anthon explained this bill applies to someone who has already received a license. It would not be proper for the State to take away a license based on water flow.

The motion carried by voice vote. Senator Thayn will sponsor H 605 on the Senate floor.

HCR 53 STATING FINDINGS OF THE LEGISLATURE to honor and commemorate Michael Patrick Nugent for his years of service.
Senator Buckner-Webb, District 19, presented HCR 53 in acknowledgement of Michael Patrick Nugent's 41 year career with the State of Idaho Legislative Services Office. Mr. Nugent's educational background served as an appropriate foundation for his work for the State of Idaho. Mr. Nugent is an invaluable part of the legislative process. As Division Manager in the Legislative Services Office, he was responsible for a staff covering multiple areas: research, draft legislation, review of agency rules, staffing legislative committees, consultation on legislative process, review of function and the provision of information to public and State agencies. He has staffed numerous interim committees and served as critical support to legislators.

Senator Buckner-Webb said Mr. Nugent has been an active participant in the Council of State Governments West, National Conference of State Legislatures, and served on numerous committees with both organizations. In 2017, he was awarded the National Conference of State Legislatures Legislative Staff Achievement Award. A colleague described Mr. Nugent as calm, well-respected, balanced, and extremely hard working.

Mike Nugent will retire from the Legislative Services office on May 31, 2018. Senator Buckner-Webb asked to honor his exemplary career and dedicated service to the Idaho Legislature by sending HCR 53 to the floor with a do pass recommendation.

MOTION: Senator Hill moved to send HCR 53 to the Senate floor with a do pass recommendation. Vice Chairman Hagedorn seconded the motion. The motion carried by voice vote.

RS 26313 STATING FINDINGS OF THE LEGISLATURE to authorize the Legislative Council to appoint a committee to study issues related to information technology.

Senator Hill spoke in place of Senator Martin. RS 26313 proposes to authorize the extension of the State Procurement Interim Committee for one more year to pursue issues related to information technology procurement.

MOTION: Vice Chairman Hagedorn moved to send RS 26313 to print. Senator Lodge seconded the motion. The motion carried by voice vote.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 8:12 a.m.
AGENDA
SENATE STATE AFFAIRS COMMITTEE
8:00 A.M.
Room WW55
Friday, March 09, 2018

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<td>RS26317</td>
<td>UNANIMOUS CONSENT REQUEST from the Senate Commerce and Human Resources Committee to print.</td>
<td>Senator Patrick</td>
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<td>RS26344</td>
<td>UNANIMOUS CONSENT REQUEST from the Senate Commerce and Human Resources Committee to print.</td>
<td>Senator Lakey</td>
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<td>HCR 51</td>
<td>STATING FINDINGS OF THE LEGISLATURE to authorize the formation of a study group to make recommendations regarding the locations of State government agencies.</td>
<td>Representative Robert Anderst</td>
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<td>HCR 54</td>
<td>STATING FINDINGS OF THE LEGISLATURE to congratulate Jerry Kramer on his induction into the Pro Football Hall of Fame.</td>
<td>Representative Caroline Nilsson Troy</td>
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<td>H 607</td>
<td>RELATING TO INFORMATION TECHNOLOGY SERVICES to establish an office within the Office of the Governor.</td>
<td>Jeff Weak, Director of Information Security</td>
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<td>H 620</td>
<td>RELATING TO PUBLIC OFFICIALS to provide for the Public Integrity in Elections Act.</td>
<td>Representative Jason Monks</td>
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<td>H 638</td>
<td>RELATING TO THE ABORTION COMPLICATIONS REPORTING ACT to require reporting of health complications related to abortions to the Idaho Department of Health and Welfare.</td>
<td>Representative Greg Chaney</td>
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*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov
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                              Twyla Melton, Secretary
Vice Chair                                       

________________________________________  ______________________________
Senator Hagedorn                              Carol Cornwall, Assistant Secretary
March 8, 2018

The Honorable Jeff Siddoway  
State Affairs Committee  
Idaho State Senate  
HAND DELIVERED

Dear Chairman Siddoway:

The Senate Commerce and Human Resources Committee unanimously requests that the enclosed RS 26317 Relating to An Interim Committee, Pharmacy Benefit Managers, be sent to print from your committee and then referred to the 10th Order for further action, subject to the approval of the Senate President Pro Tempore.

Thank you for your assistance.

Senator Jim Patrick, Chairman  
Commerce and Human Resources Committee

JP:lk  
Enclosures
March 8, 2018

The Honorable Jeff Siddoway  
State Affairs Committee  
Idaho State Senate  
HAND DELIVERED

Dear Chairman Siddoway:

The Senate Commerce and Human Resources Committee unanimously requests that the enclosed RS 26344 Relating to An Interim Committee, Regulatory Reform Joint Sub-Committee, be sent to print from your committee and then referred to the 10th Order for further action, subject to the approval of the Senate President Pro Tempore.

Thank you for your assistance.

[Signature]

Senator Jim Patrick, Chairman  
Commerce and Human Resources Committee

JP:lk  
Enclosures
Transcript of voice mails.

2012 voicemail
"Hello, parents. This call is in regards to our KSD supplemental levy election. Passage of this levy is critical for us to maintain 25 teaching positions and eliminate student extra-curricular fees. Please vote on Tuesday, August 28th. Thank you for your support."

2014 voicemail/email
email "This is a reminder message from the KSD. The supplemental levy election will be held tomorrow, March 11th. The district is asking to continue the $3.19 million supplemental levy for another 2 years. The supplemental levy renewal will not add a new tax and the levy rate will remain the same ... Please ensure your voice is heard by voting."

2017 videos
"Without local funding, we cannot provide all the resources that our students need to succeed...what are we to do? ... This levy provides the resources for our district to do great things for kids like me... Thank you, for supporting Kuna Schools and Go Kavemen!"

"We’re happy to say that the election that is coming in March, if both the bond and supplemental levy are approved, the tax rate will not go increase."
Superintendent Message (February 11, 2014)

Kuna School District Update

Inspiring each student to become a lifelong learner and a contributing, responsible citizen

February 11, 2014

To those who are important to us,

March 11 is a very important day to the children in the Kuna School District,

In our January School Board meeting, our Trustees voted to ask our patrons to renew our $3.1 million supplemental levy on March 11. As you know, the term “supplemental” is a misnomer. Supplemental implies extra. In recent years, a better term for the levy might be the “essential” levy. The state’s drastic cuts to education over the last five years have totaled a loss of over $9 million to the Kuna School District. The 2012 levy taxpayers passed has helped us offset these losses which enabled the district to continue to provide essential services to the children in our district. Generous taxpayer support for the last two years has allowed the Kuna School District to keep the following essential services to children in place for the last two school years.

- Maintain 52 district positions in order to lower class sizes
- Restore 6 student contact days
- Restore 15% of school supply budgets which provided resources to classrooms
- Eliminate extracurricular and class fees which allowed more students to participate in activities

On March 11 we will be asking our taxpayers to once again invest in the children in the district by renewing the $3.1 million levy in order to maintain essential services to children. More information can be found at our district website, www.kunaschools.org.

Upon reading this, I know many of you will want to know what you can do to help. To remind you, Idaho Code stipulates that school property may not be used to advocate political purposes. This means that you are unable to use district equipment (i.e., phones, email, computers, etc.) or time to advocate for or against the levy. You can volunteer your free time to a community group called the Friends of the Kuna School District. The steering committee is lead by the following community leaders:

Jim Ford  
jdford@hotmail.com  
941-5796

Jen Leuck  
jen@qualityfilterwholesale.com  
559-1999

Connie Roberts  
robertcct@msn.com  
871-0998

Sallie Ann McArthur  
salgal@yahoo.com  
922-9623

Celeste Blackburn  
cmpblackb@yahoo.com  
412-0765

Keven Shreeve  
shreeve.ksd@gmail.com  
866-4098

Thank you for your help!
2014-2016 Supplemental Levy Renewal

On March 11, 2014 vote to
Maintain a Quality Education for Every Student

A Yes Vote Will:
- Maintain school and operational supply budgets
- Retain high qualified staff and teachers
- No charging of school fees
- Retain employee positions (lower class sizes)
- Keep days on the calendar

A No Vote Will:
- Reduce school and operational supply budgets
- Lose teachers and staff to other districts
- Increase student fees
- Reduce district staff (larger class sizes)
- Reduce school calendar
Please Vote

Renew Existing Levy

Not a New Tax

Election
Supplemental Levy
2014-2016

Renaissance School District #3
Kuna Joint School District #2

For more information please visit www.kunnaschools.org
Phone: (208) 922-1000
Kuna, ID 83634
711 E. Denver

March 11, 2014

What will happen if the levy is not

Renewed?

A: The district will be forced to consider:

- Increasing class sizes
- Eliminating positions and instruction
- Eliminating calendar days

Q: What will happen if the levy is not

Renewed?

A: The levy will lower the cost of operating schools over the next two years and reinvest in the existing schools.

Q: Why does the Kuna School District need

Support School Bonds?

A: A supplemental levy requires a simple

majority of 50% plus 1.

Q: What is the requirement to pass a levy?

A: A supplemental levy requires a simple

majority of 50% plus 1.

Q: What is a supplemental levy?

A: A supplemental levy is a way for schools to

meet the educational needs of students.

Q: Why is a supplemental levy?
Supplemental Levies will expire on June 30, 2016.


Low Basics

$5,000 of taxable home value.
This comes to approximately $57 per day.

The levy renewal will be for $3.19 million each year for two years 2014-2016.

Without the Supplemental Levy the same:
A yes vote will keep taxpayers levy rate.

How Much WILL Renewing

Supplemental Levy

Benefits of the 2012/2014

General Fund in-
Expenses (Covers) 2013-15
2014-15
2015-16

Without the Supplemental Levy

With the Supplemental Levy

General Fund in-
Expenses (Covers) 2013-15
2014-15
2015-16

Without a $3.19 Million Supplemental Levy,
the school must operate school and
support personnel.

With a Supplemental Levy,
the school can keep.

Benefits: Larger Class Sizes,
Reduced class sizes, Reduced district salaries,
Increased teacher pay, No charging of school,
and fee.

Reduce District Salaries.

Raising operating budgets.

Supply budget, and operational budget.
Maine schools: 1,500 employees.

Keep the levy.

Eliminate school fees.

Provide for district Wide paper.

Eliminate pay for play fees.

Supplemental budgets increase.

Sharpen district costs.

Maintain class sizes.

2014 Levy allows the school district to:

Generous taxpayer support of the
VOTE

SD ballot in the mail.

Visit our website to receive your Kuna Joint School District ballot. Complete the County Application form and send it to the office. Complete the County Application form and send it to the office.

To vote absentee – pick up a form at any district school or the district office. Complete the County Application form and send it to the office.

If you will be gone during voting hours on Tuesday, March 14th, you can still register at your polling place.

About Voting

Duration: 8 am to 8:30 pm

Tuesday, March 14, 2017

Residence: All registered voters in the Kuna School District. Anyone not registered may do so by completing the Idaho Voter Registration form.

WHO?

3: Vote at the same location where you have the
8 am to 5 pm

Tuesday, March 14, 2017

Residence: All registered voters in the Kuna School District. Anyone not registered may do so by completing the Idaho Voter Registration form.

WHO?

BOND

Kuna Joint School

ELECTION

DISTRICT NO. 3

School

SD ballot in the mail.

Visit our website to receive your Kuna Joint School District ballot. Complete the County Application form and send it to the office. Complete the County Application form and send it to the office.

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About Voting

Duration: 8 am to 8:30 pm

Tuesday, March 14, 2017

Residence: All registered voters in the Kuna School District. Anyone not registered may do so by completing the Idaho Voter Registration form.

WHO?

BOND

Kuna Joint School

ELECTION

DISTRICT NO. 3

School


**LEY FOR LEARNING**

- Build a new 500 student High School with CTE & Athletics
- Add a new Multi-Purpose Athletic Room to KHS
- Convert a room to a Middle School & Renovate
- Add 4 classrooms at Reedy Creek Forest

**BOND FOR BUILDING**

This land work produced a positive plan for growth and learning.

This land work produced a positive plan for growth and learning.

- Add 4 classrooms at Reedy Creek Forest
- Convert a room to a Middle School & Renovate
- Add 4 classrooms at Reedy Creek Forest

**FURTHER TAX INFORMATION**

For 2 years, for Learning and Health and safety positions.

For 2 years, for Learning and Health and safety positions.

- Current buildings will provide 40 million dollars for new construction and update
- Current buildings will provide 40 million dollars for new construction and update

**FINANCIAL FACTS**

- Simply put, our goal is to improve learning for our students.
ELECCIONES PÚBLICAS

DISTRITO ESCOLAR DE KUNA

NO. 3

ESCHOOL

8:00 AM - 8:00 PM
MARTES 14 DE MARZO DE 2017

VOTE
Proporcionar posiciones para la Stalk & Segunda aceleración.

Proceso de Atracción de Estudiantes:
- Consultar con la Junta de Educación de la Junta de Educación.
- Asegurarse de que la Junta de Educación de la Junta de Educación.
- Renovar los equipos de Segundo Estudio en el KHS.
- Convertir la Junta de Educación en una Escuela de Segundo Estudio.
- Mejorar la infraestructura en las escuelas y mejorar los terrenos.

Plan Maestro

Información Fiscal Adicional

Datos Financieros
Testimony of Kathy Griesmyer
OPPOSE HB 620 – Public Integrity in Elections Act
Before Senate State Affairs Committee
March 9, 2018

The ACLU of Idaho stands before you today in opposition to HB 620 because it raises serious constitutional concerns about restricting First Amendment protected free speech.

In the proposed legislation, under section 74-604 it states that a public entity nor its employees shall make a public expenditure to advocate for a candidate or ballot initiative. It also states that public entities nor its employees shall use public property or resources to advocate for a candidate or ballot initiative. By enacting these provisions, HB 620 would significantly impede the First Amendment rights of teachers and students throughout Idaho’s public schools, community colleges and state universities. For example:

- Politically active, school approved student groups (public entity) would be barred from using school computers or printers (public entity resource that members of the general public have no access to) to distribute information regarding candidates or ballot measures they support;
- Students would be barred from using K-12 libraries (public property belonging to a public entity) to have political discussions regarding candidates or ballot measures (with the understanding that these libraries aren’t commonly open to the general public while school is in session);
- Students would be barred from using school computers (public resource belonging to a public entity) to share their private political beliefs on social media.

The violations provision of HB 620 also presents additional concerns. The legislation sets up a system where government, through the actions of the Idaho Attorney General, local prosecutors, and judges, will decide what is considered “factual information” or advocacy speech. Such determinations are subject to broad interpretation and creates a provision where government gets to determine what is true or false. This could essentially amount to political censorship, with parties arguing in court what are the boundaries of “factual information” or advocacy speech. As stated in a recent 9th Circuit Court of Appeals decision in Animal Legal Defense Fund et al v. Wasden, the court stated:

“The pervasiveness of false statements, made for better or for worse motives, made thoughtlessly or deliberately, made with or without accompanying harm, provides a weapon to a government broadly empowered to prosecute falsity without more. And those who are unpopular may fear that the government will use that weapon selectively, say, by prosecuting a [politically unpopular individual who makes false claims], while ignoring members of other political groups who might make similar false claims.”


For questions or comments, contact Kathy Griesmyer, Policy Director, at 208-344-9750 x1204.
Essentially, under the violations provision of HB 620, government will now be empowered to sanction or silence particular types of speech, casting a chilling effect over the First Amendment rights of public employees or those who engage with public entities and their property and/or resources.

Ultimately, measures intended to root out corruption in elections cannot interfere with the private freedom of speech by teachers, students or others wishing to make their views known. Due to the speech concerns identified in HB 620, we ask that you vote “no” and hold this bill in committee.

For questions or comments, contact Kathy Griesmyer, Policy Director, at 208-344-9750 x1204.
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<td>Minutes of February 12, 2018</td>
<td>Senators Anthon and Stennett</td>
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<td></td>
<td>Minutes February 21, 2018</td>
<td>Senators Hagedorn and Buckner-Webb</td>
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<td></td>
<td>Minutes of February 26, 2018</td>
<td>Senators Hill and Vick</td>
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<tr>
<td></td>
<td>Minutes of March 7, 2018</td>
<td>Senators Lodge and Winder</td>
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<td><strong>H 638 continued</strong></td>
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<td><strong>HCR 52</strong></td>
<td>STATING FINDINGS OF THE LEGISLATURE rejecting certain rules of the Idaho Division of Building Safety.</td>
<td>Representative Dustin Manwaring</td>
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*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**
- Chairman Siddoway
- Vice Chairman Hagedorn
- Sen Hill
- Sen Winder
- Sen Lodge
- Sen Vick
- Sen Anthon
- Sen Stennett
- Sen Buckner-Webb

**COMMITTEE SECRETARY**
- Twyla Melton
- Room: WW42
- Phone: 332-1326
- email: sstaf@senate.idaho.gov
DATE: Monday, March 12, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

MINUTES APPROVAL: Senator Stenett moved to approve the minutes of February 12, 2018. Vice Chairman Hagedorn seconded the motion. The motion carried by voice vote.

Vice Chairman Hagedorn moved to approve the minutes of February 21, 2018. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

Senator Hill moved to approve the minutes of February 26, 2018. Senator Vick seconded the motion. The motion carried by voice vote.

Senator Lodge moved to approve the minutes of March 7, 2018. Senator Winder seconded the motion. The motion carried by voice vote.

H 638 RELATING TO THE ABORTION COMPLICATIONS REPORTING ACT to require reporting of health complications related to abortions to the Idaho Department of Health and Welfare.

Chairman Siddoway explained discussion would continue from the previous Committee meeting regarding H 638, reporting complications associated with abortions. He welcomed David Ripley.

David Ripley, Executive Director, Idaho Chooses Life, thanked Representative Chaney and Senator Martin for their leadership on this bill. He named other organizations that were instrumental in shaping H 638 and have shown support throughout the process.

Mr. Ripley said he heard Idaho does not need this legislation because Idaho already has a reporting system. Abortion practitioners are required to report abortions they perform to the Idaho Department of Health & Welfare (IDHF). That law was enacted in 1977. Nowhere does the law require that complications to an abortion be reported – by the abortion practitioners or anyone that may treat such complications. IDHF included a table in its Annual Report reporting 9 complications out of 1289 abortions in 2016. Mr. Ripley stated his belief that this number is grossly misleading for the following reasons: 1.) IDHF does not have the statutory authority to require the disclosure of complications; Idaho Code § 39-261 does not mention complications; and 2.) Idaho Code § 39-261 is directed solely at abortion – most complications are not going to take place in the abortion practitioner's office, especially in this age of chemical abortions which are, in part, carried out at home.
In answer to Senator Winder's question regarding the collection of data, Mr. Ripley stated Idaho already collects extensive demographic data from abortion practitioners on women undergoing abortions. This has been ongoing since 1977 without legal challenge. Mr. Ripley referred to the loss of a ban on telemedicine abortions in federal court for lack of hard evidence that there are health risks associated with abortion. The only data available was from the Federal Drug Administration for the year 2011. This, or similar, legislation has been enacted by 12 states: Arizona, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Wisconsin, Wyoming, Louisiana, Mississippi, and Missouri. **H 638** has been modified due to work with the Idaho Medical Association (IMA) and the Idaho Hospital Association (IHA).

In response to a question regarding confidentiality, Mr. Ripley maintained this legislation would protect the anonymity of the woman. He stated tracking any particular woman's medical history will not be possible. Under this legislation, IDHF would only be responsible for managing and reporting the data. The Attorney General's Office did not raise an issue with this provision.

**Mr. Ripley** addressed other aspects of the bill (Attachment 1). He asked for the Committees' support for what he viewed as a landmark bill.

**Senator Buckner-Webb** asked if there were other post-medical procedures that require this type of reporting. Mr. Ripley was not aware of any. **Senator Buckner-Webb** asked if Mr. Ripley had consulted with medical professionals outside the group he is representing about their responses to this kind of reporting requirement on behalf of their patients. Mr. Ripley responded they met with representatives of the IMA and addressed their concerns. There were also conversations with the Idaho State Board of Medicine and the IHA to address their concerns.

**Senator Buckner-Webb** inquired if Mr. Ripley would share some of their concerns. Mr. Ripley indicated one of the more substantial concerns of the IMA involved the original idea of tracking the financial costs associated with treatment of post-abortive complications; that section was removed from this bill. The IMA was concerned about a challenge for vagueness. As a result, the list of complications is extensive. Another concern from the medical community was that not all doctors agree all of the complications on the list are abortion related. Mr. Ripley elaborated on the link between abortion and breast cancer. The language was altered to reflect the best medical judgement of the individual doctor based upon his/her understanding of the issues.

**Kerry Uhlenkott**, Legislative Coordinator, Right to Life of Idaho, stated she is in support of **H 638**. Ms. Uhlenkott said, with his permission, she will read a synopsis of Dr. Randy O'Bannon's germane points about chemical abortion complications. He made these points when he testified in Idaho in 2015 to support the webcam ban legislation. Dr. O'Bannon is the Director of Education and Research at the National Right to Life Committee (Attachment 2). In closing, **Ms. Uhlenkott** stated accurate and comprehensive reporting of abortion complications will be a huge step in helping protect women's health, and asked the Committee to vote for **H 638**.

**Senator Stennett** asked, given that men and women could have all the potential ailments listed in the bill, if Ms. Uhlenkott was comfortable with only women being profiled as this bill indicates. Ms. Uhlenkott answered in the affirmative since abortions are primarily concerned with women.

**Senator Stennett** asked where this information will be compiled; she inquired as to what other states do with this information. Ms. Uhlenkott stated her understanding is other states compile the information through their health and welfare departments. **Senator Stennett** asked what they are doing with the information. Ms. Uhlenkott
stated she could not answer that question.

**Senator Buckner-Webb** asked if this legislation is the result of the outcome of the telemedicine bill. **Ms. Uhlenkott** answered chemical abortions account for about half of all abortions performed in Idaho as well as webcam abortions. This legislation would serve as a follow up to identify any complications from those chemical abortions.

**Senator Stennett** referred to page 6, line 37 of the bill regarding the Legislature’s right of intervention by concurrent resolution. She stated this legislation has been vetted; does that mean it is not in conflict with federal law. **Ms. Uhlenkott** deferred that question to the sponsor.

**Mistie Tolman**, Legislative Director for Planned Parenthood Votes Idaho (PP), testified in opposition to **H 638**. **Ms. Tolman** declared she was proud of the care PP consistently provides women, even in the face of accusations and threats. She referred to studies from scientific and medical journals indicating a vast amount of data regarding the high level of safety of abortions. **Ms. Tolman** named several organizations who provided this data.

**Ms. Tolman** stated PP follows rigorous medical standards and guidelines, and supports medical practices based on sound science and research. She asserted the reporting outlined in **H 638** is not representative of complication reporting for any other medical procedure. She emphasized such reporting should be collected through high-quality medical and social science research and peer-reviewed studies, not government forms. **Ms. Tolman** reported Idaho already requires reporting of serious complications resulting from abortion, and she discussed the complication and mortality rates compared to other medical procedures.

**Julie Lynde**, Policy Director, Family Policy Alliance of Idaho, testified in support of **H 638**. **Ms. Lynde** voiced concern for women who must confront the decision regarding an abortion. She perceived this reporting as being important to provide a better understanding of what can be expected, should they choose to have an abortion.

**Senator Stennett** inquired of Representative Chaney why he felt there would be minimal fiscal impact on the Idaho Department of Health and Welfare (IDHW).

**Representative Chaney** replied the number reported was low, so there would be minimal fiscal impact. **Senator Stennett** referred to the increase in information the IDHW will be compiling, and she asked if they had been consulted regarding the fiscal impact. **Representative Chaney** answered the IDHW contacted him and advised they may need an additional FTP.

**Representative Chaney** reiterated this process is for data compilation, not a research study. He noted it would give public health officials additional information to consider in decision making regarding underserved populations, problematic providers, and problematic procedures. He emphasized that data is nonpartisan, with no anti- or pro-abortion stance.

Elyse Durand submitted written testimony in opposition to **H 638** (Attachment 3).

**MOTION:** **Vice Chairman Hagedorn** moved to send **H 638** to the floor with a do pass recommendation. **Senator Vick** seconded the motion.

**Senator Stennett** declared **H 638** proposes requesting information not allowed by HIPAA like race, age, and country of residence. She expressed concern regarding the constitutionality of the bill, and stated she would not support it.

The motion passed by voice vote. **Senator Stennett** and **Senator Buckner-Webb** voted nay.
HCR 52  STATING FINDINGS FOR THE LEGISLATURE rejecting certain rules of the Idaho Division of Building Safety.

Representative Dustin Manwaring, District 29, stated HCR 52 proposes to reject three pending rules relating to Rules of Building Safety, Docket No. 07-0301-1701, Docket No. 07-0401-1701, and Docket No. 07-0901-1701.

Chairman Siddoway requested the content of the building codes. Representative Manwaring explained Docket No. 07-0301-1701 dealt with Idaho building codes relating to tiny homes being more restrictive than codes published by the International Code Council, a situation in conflict with Idaho law. He stated Docket No. 07-0401-1701 added standards regarding the Consumer Product Safety Commission. Concern was expressed over the language of this rule. Representative Manwaring related Docket No. 07-0901-1701 needed to be rejected as it works in conjunction with the other two.

Brody Aston, Idaho Association of Building Officials, explained that HCR 52 has been addressed in the Senate under SCR 141 and SCR 142. He discussed the differences and reported that the House and the Senate have come to different conclusions regarding this matter. Senator Hill did not feel, considering the additional complications, that this should be heard in the Committee.

MOTION: Senator Hill moved to send HCR 52 back to the floor to be referred to the Commerce and Human Resources Committee. Vice Chairman Hagedorn seconded the motion. The motion carried by voice vote.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 8:55 a.m.

__________________________________________________________
Senator Hagedorn
Vice Chair

__________________________________________________________
Twyla Melton, Secretary

__________________________________________________________
Carol Cornwall, Assistant Secretary
MR. CHAIRMAN, THANK YOU FOR GIVING US TIME WITH YOUR COMMITTEE TO DISCUSS THIS GROUND-BREAKING LEGISLATION.

WE’VE ALREADY HEARD A LOT ABOUT THIS PROPOSAL, AND I’D LIKE TO TAKE A MOMENT TO RESPOND TO SOME QUESTIONS – AND TO EMPHASIZE THE KEY REASONS WE URGENTLY NEED THIS REFORM ENACTED INTO LAW.

BUT FIRST – I’D LIKE TO THANK REP. CHANEY AND SEN. FRED MARTIN FOR THEIR LEADERSHIP ON THIS BILL. I’M ALSO THANKFUL FOR THE SUPPORT OF RIGHT TO LIFE, THE FAMILY RESEARCH COUNCIL ... AMERICANS UNITED FOR LIFE ... AND THE CO-SPONSORS. I MUST ALSO THANK THE ATTORNEY GENERAL’S OFFICE ... AND THE GOOD FOLKS AT THE BOARD OF MEDICINE FOR THEIR INPUT.

YOU MAY HEAR THAT WE DON’T NEED THIS ... BECAUSE IDAHO ALREADY HAS A REPORTING SYSTEM.

THAT IS NOT QUITE TRUE. TITLE 39, CHAPTER 2 OF IDAHO CODE DOES INDEED REQUIRE REPORTING BY THE ABORTION INDUSTRY. THEY ARE REQUIRED TO REPORT THE ABORTIONS THEY PERFORM TO THE DEPARTMENT OF HEALTH & WELFARE. THAT WAS ENACTED IN 1977.

BUT NO WHERE DOES IT REQUIRE ABORTIONISTS TO REPORT COMPLICATIONS – LET ALONE ANYONE ELSE IN THE MEDICAL COMMUNITY.

IT IS TRUE THAT THE DEPARTMENT’S ANNUAL REPORT INCLUDES A TABLE (PAGE 12) SHOWING THAT THERE WERE 9 “COMPLICATIONS” OUT OF 1289 ABORTIONS PERFORMED IN IDAHO DURING 2016. BUT THIS IS A GROSSLY MISLEADING NUMBER.
FIRST – WE DON'T BELIEVE THE DEPARTMENT PRESENTLY HAS THE STATUTORY AUTHORITY TO REQUIRE THE DISCLOSURE OF COMPLICATIONS. 39-261 DOES NOT MENTION "COMPLICATIONS".

SECOND – IDAHO CODE 39-261 IS DIRECTED SOLELY AT ABORTIONISTS. ESPECIALLY IN THE AGE OF CHEMICAL ABORTIONS ... IN WHICH THE GIRL OR WOMAN IS SENT HOME WITH A PILL TO PERFORM SELF-ABORTIONS ... MOST COMPLICATIONS ARE NOT GOING TO TAKE PLACE IN PLANNED PARENTHOOD OFFICES.

THE DATA NOW BEING PROVIDED BY THE DEPARTMENT IN ITS ANNUAL REPORT ON COMPLICATIONS IS ACTUALLY WORSE THAN NO DATA AT ALL. IT ALMOST CERTAINLY UNDERSTATES THE HEALTH PROBLEMS THAT WOMEN ARE EXPERIENCING.

IF I MAY ... I’D LIKE TO DIGRESS FOR A MOMENT TO ADDRESS A CONCERN RAISED BY SENATOR WINDER ON FRIDAY. HE ASKED IF THE COLLECTION OF DEMOGRAPHIC INFORMATION ABOUT FEMALE PATIENTS MIGHT POSE SOME SORT OF LEGAL PROBLEM FOR THE STATE.

FIRST – THE ATTORNEY GENERAL’S OFFICE HAS THOROUGHLY VETTED THIS LEGISLATION AND SEES NO CONSTITUTIONAL PROBLEMS.

SECOND – THE STATE OF IDAHO IS ALREADY COLLECTING EXTENSIVE DEMOGRAPHIC DATA FROM ABORTIONISTS ON WOMEN UNDERGOING ABORTIONS:

• COUNTY OF RESIDENCE, AS WELL AS COUNTY WHERE THE PROCEDURE TOOK PLACE;
• AGE OF THE WOMAN
• MARITAL STATUS
• PREVIOUS ABORTION HISTORY
• ETHNICITY AND RACE OF THE WOMAN RECEIVING AN ABORTION 
• TYPE OF PROCEDURE USED 
• GESTATIONAL AGE OF THE PREBORN CHILD 
• PREVIOUS LIVE BIRTHS EXPERIENCED BY THE WOMAN

AND, IT HAS BEEN COLLECTING THAT INFORMATION PURSUANT TO IC 39-261 
SINCE 1977 WITHOUT LEGAL CHALLENGE.

MR. CHAIRMAN, THIS LEGISLATION STARTED IN RESPONSE TO OUR LOSS OF THE 
BAN ON TELEMED ABORTIONS IN FEDERAL COURT A COUPLE OF YEARS AGO.

PART OF THE REASON WE LOST THAT LAWSUIT WAS FOR LACK OF HARD 
EVIDENCE THAT THERE ARE HEALTH RISKS ASSOCIATED WITH ABORTION. THE 
STATE HAD TO RELY ON DATA FROM THE FDA – WHICH HAS NOT PUBLISHED A 
REPORT SINCE 2011.

BUT AS I’VE DUG DEEPER INTO THIS MATTER, IT HAS BECOME RATHER SHOCKING 
TO ME THAT WE HAVE YET TO ADDRESS THIS WHOLE PROBLEM, SOME 45 YEARS 
INTO THE ROE ERA. THE ONLY DATA WE HAVE COMES FROM THE ABORTION 
INDUSTRY ITSELF. EVERYTHING IS SHROUDED IN MYSTERY AND SILENCE. WE 
MUST END THAT.

WE SIMPLY CAN’T WAIT ON THE FEDERAL GOVERNMENT FOR INFORMATION ON 
HOW THE INGESTING OF POWERFUL DRUGS LIKE RU-486 ARE IMPACTING 
WOMEN’S HEALTH -- PARTICULARLY SINCE WE ARE NOW ONE OF ONLY TWO 
STATES ENGAGING IN THE EXPERIMENT OF TELE-MED ABORTIONS.

I WOULD ALSO POINT OUT, MR. CHAIRMAN, THAT THIS LEGISLATION – OR 
SOMETHING SIMILAR -- HAS BEEN ENACTED IN TWELVE STATES AS OF NOW:
- Arizona, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Wisconsin, Wyoming, Louisiana, Mississippi and Missouri.

THERE HAVE BEEN MODIFICATIONS TO THIS LEGISLATION AS A RESULT OF OUR WORK WITH THE IDAHO MEDICAL ASSOCIATION AND THE IDAHO HOSPITAL ASSOCIATION. WE HAVE RESPONDED TO THEIR CONCERNS – THE LATEST OF WHICH IS REMOVING LANGUAGE IN THE BILL WHICH WOULD REQUIRE KEEPING TRACK OF THE COSTS ASSOCIATED WITH ABORTION COMPLICATIONS. THE HOSPITALS TOLD US THAT WOULD BE TOO CUMBERSOME.

THERE ARE ACTUALLY VERY GOOD REASONS FOR LOOKING AT THE HARD DOLLAR IMPACTS ASSOCIATED WITH ABORTION – IT IS NOT SIMPLY A MATTER OF THE COST OF THE PROCEDURE ITSELF. THAT IS ESPECIALLY TRUE IN CASES WHERE A WOMAN OR GIRL IS RECEIVING SUBSEQUENT TREATMENT UNDER THE MEDICAID PROGRAM.

NEVERTHELESS, THE HOSPITAL ASSOCIATION TOLD US THAT KIND OF DATA WOULD BE HARD TO COLLECT, SO WE REMOVED THAT REQUIREMENT FROM THE BILL. IT IS MORE IMPORTANT TO BEGIN TRACKING THE HEALTH RISKS.

BUT PERHAPS WE CAN REVISIT THE QUESTION OF SUBSEQUENT TREATMENT COSTS AT SOME POINT IN THE FUTURE.

MR. CHAIRMAN, I WOULD LIKE TO ANTICIPATE A COUPLE OF OTHER POSSIBLE OBJECTIONS TO THIS LEGISLATION.

ONE ARGUMENT I’VE SEEN IS THAT THE DEPARTMENT WILL HAVE TROUBLE KEEPING THE WOMAN’S IDENTITY CONFIDENTIAL IF IT HAS TO TRACK THE TREATMENTS AN INDIVIDUAL WOMAN UNDERGOES AFTER AN ABORTION.

THIS REPRESENTS A MISREADING OF THE BILL AND THE ROLE OF THE DEPARTMENT.
AS REP. CHANEY EXPLAINED, THIS LEGISLATION GOES TO GREAT LENGTHS TO PROTECT THE ANONYMITY OF THE WOMAN. AS A RESULT, THE DEPARTMENT WILL BE UNABLE TO TRACK THE MEDICAL HISTORY OF A PARTICULAR WOMAN.

DOWN THE ROAD, IT WILL BE IMPORTANT FOR THOSE OF US LOOKING AT THE DATA TO REMEMBER THAT WE WON’T BE ABLE TO TELL FOR CERTAIN WHETHER A SINGLE ABORTION PROCEDURE LED TO SEVERAL DIFFERENT HEALTH PROBLEMS – OR WHETHER FIVE SEPARATE WOMEN EXPERIENCED FIVE SEPARATE ADVERSE EVENTS.

THAT IS JUST THE PRICE WE WILL HAVE TO PAY IN ORDER TO PROTECT WOMEN AND THEIR CONFIDENTIALITY.

I’VE ALSO HEARD AN OBJECTION RAISED REGARDING THE DEPARTMENT’S INABILITY TO DETERMINE WHETHER A REPORTED HEALTH COMPLICATION IS THE RESULT OF AN ABORTION, OR SOME OTHER FACTOR – OR ONE OF MANY FACTORS PRODUCING A GIVEN HEALTH PROBLEM.

LET ME POINT OUT THAT THE DEPARTMENT HAS NO ROLE WHATSOEVER IN MAKING A DIAGNOSIS. THAT ISSUE WAS PART OF OUR DISCUSSIONS WITH THE IMA. ONLY LICENSED MEDICAL PROFESSIONALS CAN MAKE SUCH A DETERMINATION – WITHIN THE SCOPE OF THEIR LICENSE. THE DEPARTMENT HAS NO RESPONSIBILITY WHATSOEVER TO MAKE MEDICAL DETERMINATIONS, NOR IS IT QUALIFIED TO DO SO.

THEY ARE RESPONSIBLE FOR MANAGING AND REPORTING THE DATA ONLY.

I HAVE EVEN HEARD AN ARGUMENT THAT THIS NEW REPORTING SYSTEM MIGHT SOMEHOW DISCOURAGE WOMEN FROM SEEKING TREATMENT FOR ABORTION COMPLICATIONS.

WITH ALL DUE RESPECT – THIS IS A SPECIOUS ARGUMENT. THE PATIENT HAS NO RESPONSIBILITIES WHATSOEVER UNDER THIS LEGISLATON. THIS REPORTING
PROCEDURE HAPPENS ENTIRELY BEHIND THE SCENES. THE ONLY POSSIBLE IMPACT ON THE WOMAN INVOLVED WOULD BE THE GATHERING OF PERTINENT MEDICAL INFORMATION AND PATIENT HISTORY – WHICH MUST HAPPEN AS PART OF ANY RESPONSIBLE MEDICAL PRACTICE.

BEFORE CLOSING, MR. CHAIRMAN, I WOULD LIKE TO RESPOND TO ANOTHER QUESTION RAISED ON FRIDAY MORNING. THERE HAVE BEEN QUITE A FEW QUESTIONS COMING ABOUT THE SECTION OF THE BILL (39-9508; PAGE 6) WHICH PROVIDES A MECHANISM FOR THE LEGISLATURE TO INTERVENE IN A LAWSUIT IF THIS LAW IS CHALLENGED.

THIS IS FAIRLY INNOVATIVE LANGUAGE – THOUGH IT HAS BEEN USED IN OTHER STATES. THE WAY WE SEE THIS WORKING IS THAT IF A LAWSUIT IS FILED ... THE ATTORNEY GENERAL WOULD STILL PROVIDE THE STATE’S BASIC, FIRST-LINE DEFENSE.

BUT IF THE LEGISLATURE FELT THAT ITS POLICY POSITION WAS NOT BEING ADEQUATELY DEFENDED BY THE EXECUTIVE BRANCH – AS SOME OF US FELT ABOUT THE LAWSUIT AGAINST OUR BAN ON TELE-MED ABORTIONS – IT WOULD HAVE THE PEROGATIVE OF INTERVENING IN THE CASE TO AUGMENT THE STATE’S DEFENSE OF A GIVEN STATUTE OR POLICY.

IT DOES NOT REQUIRE INTERVENTION. IN FACT, IT WOULD TAKE A SPECIFIC LEGISLATIVE ACT TO AUTHORIZE THE INTERVENTION BY THE LEGISLATURE IN A GIVEN CASE. AND, AGAIN, THE ATTORNEY GENERAL’S OFFICE DID NOT RAISE A CONSTITUTIONAL ISSUE WITH THIS PROVISION.

I MUST ALSO MENTION THAT I AM UNAWARE OF A SINGLE LAWSUIT BROUGHT IN THE TWELVE STATES THAT HAVE CREATED SIMILAR REPORTING REQUIREMENTS.
LASTLY, THE LEGISLATIVE FINDINGS AT THE BEGINNING OF THIS BILL NICELY SUMMARIZE ALL OF THE JUSTIFICATIONS FOR APPROVING THIS LEGISLATION. I ASK COMMITTEE MEMBERS TO QUICKLY REVIEW THAT SECTION PRIOR TO A VOTE.

WITH THAT, MR. CHAIRMAN, I ASK THIS COMMITTEE’S SUPPORT FOR THIS LANDMARK LEGISLATION.

AGAIN ... THANK YOU FOR YOUR CONSIDERATION.
Mr. Chairman Members of the Committee

I am Kerry Uhlenkott. Legislative Coordinator for Right to Life of Idaho

We support House Bill 638. We commend David Ripley & Idaho Chooses Life and Rep Cheney for their work on behalf of this legislation.

With his permission I will be synopcizing some germane points about chemical abortion complications made by Dr.Randy O'Bannon Director of Education & Research at NRLC, when he testified here in 2015 in support of Web Cam Ban legislation.

Almost half of all the abortions being done in Idaho are chemical abortions. "From the beginning, the abortion industry has asserted that the chemical abortion drugs are both “safe and effective.” But too many women have found out otherwise."

According to the 2011, FDA Report there have been over 2,200 cases of complications associated with the abortion drugs. These complications include hemorrhage, infection, cases of ectopic pregnancies & even death.

"It is not only women in the US who are suffering as a result of chemical abortion drugs, it has become a worldwide trend."

Some researchers believe that the over 2,200 complications number may be just the tip of the iceberg. Because the 2011 FDA Report was not a formal study conducted by the FDA. It was only

Affiliated with the National Right to Life Committee
a summary of complications that had been reported to them. One wonders, how many complications have actually gone unreported.

"We know that some in the abortion industry, have told women suffering complications to tell doctors in the Emergency Rooms or their own private doctors that they are having miscarriages; they tell the women the doctors can not tell the difference."

"If this happens these women won't show up in any "mortality statistics" if they die or "adverse event" reports associated with the abortion chemicals, but these women will be dead or injured just the same."

No one is saying that every woman who has a chemical abortion will suffer complications. "But the over 2200 women who did were, from all we know, in good or even perfect health before taking these abortifacients."

"The abortion industry may try to tell you that they have learned from their experience and that they have eliminated the problems, but women have continued to suffer and be injured and risk death after taking the abortion pills."

Accurate and comprehensive reporting of chemical abortion complications will be a huge step in helping to protect women's health.

Please vote for HB 638. Thank you!
With his permission I have resubmitted to you a copy of Dr. Randall O'Bannon's testimony which he presented in 2015 in support of the Web Cam Abortion Ban. Dr. O'Bannon is the Director of Research and Education for National Right to Life. He has been researching and writing on chemical abortion for over 20 years when RU-486 was first tested in the US.

The FDA on April 30, 2011 reported:

* more than 2,200 reports of “adverse events” or complications (2,207)

* more than 600 women (612) hospitalized,

* more than 300 (339) requiring transfusions.

* 256 women reported infections, with 48 of them classified as severe.

* 58 cases of ectopic pregnancies, which the pills do not treat

Sometimes these complications prove deadly.

The FDA knew of at least 14 deaths associated with use of these drugs in the U.S. and at least five more in other countries.
Testimony of Randall K. O'Bannon, Ph.D.
Direction of Education & Research
National Right to Life

Good Morning, Chairman Loertscher, members of the House State Affairs Committee. I thank you for the opportunity to testify before you today.

I am Dr. Randall K. O’Bannon, the director of research and education for National Right to Life and I have been researching and writing on chemical abortion for over 20 years, from the time when RU-486 was first tested in the U.S. in 1994 to the advent of web-cam abortions in Iowa in 2008 and subsequent efforts of Planned Parenthood to expand their use to other states.

From the beginning, the abortion industry has asserted that these drugs are both “safe and effective.” But too many women have found otherwise.

Let me read you the tally from a postmarketing summary on mifepristone published by the FDA on April 30, 2011.
* more than 2,200 reports of “adverse events” or complications (2,207)
* more than 600 women (612) hospitalized,
* more than 300 (339) requiring transfusions.
* 256 women reported infections, with 48 of them classified as severe.
* 58 cases of ectopic pregnancies, which the pills do not treat

Sometimes these complications prove deadly.

The FDA knew of at least 14 deaths associated with use of these drugs in the U.S. and at least five more in other countries.

Deadly infections killed more than half (8) of those who died in the U.S. Undiscovered ectopic pregnancies which ruptured killed two others. Women in other countries have bled to death.

They aren’t identified by name in the FDA report, but we come up with names and details when we crossreference cases we’ve seen in the newspapers.

Brenda Vise was a 38 year old pharmaceutical executive from Chattanooga who died in 2001 after her ectopic pregnancy ruptured. Clinic technicians were unable to find the child on an ultrasound.

Vise’s case shows that it is not enough just to have the equipment to date or locate a pregnancy, but that it is essential to have someone who has the training to read an ultrasound, to do a pelvic exam, a blood test, to recognize the signs of ectopic pregnancy which these drugs will not treat.

Rebecca Tell Berg, a Swedish sixteen year old, and Manon Jones, an 18 year old from Britain, both bled to death, in 2003 and 2005 respectively.
Everyone who chemically aborts bleeds, and not just a little. A woman aborting with mifepristone generally bleeds four times as much as a woman having a standard first trimester surgical abortion, and sometimes the bleeding goes on for days, or weeks. When the bleeding gets out of control, what a woman needs is not a phone or a webcam, but a doctor close by who can examine her, evaluate her condition, and provide emergency surgery if necessary.

In September of 2003, Holly Patterson went to her local Planned Parenthood, signed some forms, took mifepristone there at the clinic, and administered the misoprostol to herself days later. Even though she visited her local ER when cramps and bleeding became unbearable, once she told them she was having an abortion, they simply did a pelvic exam, gave her some pain meds and sent her home.

She was dead just a few days later. What doctors thought to be the side effects of the chemical abortion turned out to be signs of a massive reproductive infection.

There was a sudden rash of these rare clostridial infections once these abortion pills went on the market. Seemingly out of nowhere, several otherwise healthy women — Holly Patterson, Orianne Shevin, Chanelle Bryant, Vivian Tran — suddenly contracted this bacteria and died within about a week of their chemical abortions.

One of the major problems in all these cases is that the signs and symptoms of an ectopic pregnancy, of a hemorrhage, of a serious reproductive tract infection — that is, painful cramping, heavy bleeding, gastro-intestinal distress — also happen to be standard side effects of the chemical abortion process. They are signs that even a trained emergency room doctor might easily misinterpret.

Someone who has been trained in use of the drugs, who understands the chemical abortion process, who knows and has examined the patient, really needs to be on hand to manage the situation, not some night shift nurse in the E.R. and certainly not some lowly clinic administrator who has drawn the short straw and gotten weekend phone duty.

No one is saying that every woman dies. But these women who did were, from all we can gather, in good or even perfect health before taking these abortifacients. They were, we must assume, screened and counseled and given the correct pills, but things somehow went horribly wrong and the help they needed was neither close enough nor swift enough nor capable enough to save their lives.

The folks at Planned Parenthood and their allies in the abortion industry may try and tell you that they’ve learned from their experience, that they’ve modified their protocol, that they’ve eliminated the problems, but women have continued to suffer and be injured and risk death after every government warning, every protocol adjustment, every new “innovation.”

Web-cam abortions are their latest innovation, one that stands to increase Planned Parenthood’s reach and its revenues, but does not promise to make women’s lives any safer.

They claim high safety and efficacy rates with webcam abortions, but critical data is missing.
In Grossman’s August 2011 study from the journal *Obstetrics & Gynecology*, 58 women, or 21% of telemedicine study participants were “lost to followup.” Nearly four times that many, 207, the report says, “declined participation” in the study or were “not invited.”

This is, in fact, one of the chief problems with web cam abortions – not the women who dutifully check in reporting they survived their chemical ordeals – but the ones who don’t, those who disappear, who go through this arduous, dangerous, bloody process without ever meeting the doctor in person who is charged with their care.

Researchers would have you ignore these lost women and calculate safety and efficacy from only those women with whom they were able to follow up. That’s part of how you get a 99% “success” rate. While possible that these lost women’s cases were non-problematic, it is also possible that these women turned to their own personal physicians, or to a doctor in the E.R., to handle serious problems.

Whether these other doctors would have been prepared to handle abortion related complications, or whether they would have even been told the woman was dealing with complications of a chemical abortion, is an open question. Some promoters of abortion pills have told women to tell doctors they are having miscarriages, telling them the doctors can’t tell the difference.

If so, they won’t show up in any mortality rates or “adverse event” reports associated with the drugs, but they will be dead or injured just the same.

Frankly, we at National Right to Life believe that both women and their unborn children would be better off if these drugs weren’t sold in the U.S. at all. But if they are going to sold, the least we can do is to make sure that the mother’s life isn’t going to be put at further risk for the convenience and economic benefit of the abortionist.

Even in Grossman’s 2011 study touting women’s ‘satisfaction” with webcam abortions, a high percentage – 25% – still said they would have preferred being in the same room as the doctor.

Perhaps the industry considers a few ruptured ectopic pregnancies, hemorrhaging patients, or life threatening infections as “statistically insignificant,” as acceptable losses, as just the cost of doing business, but I don’t think the rest of us do. Not when lives hang in the balance, not when this is an entirely elective procedure, not when we can put a doctor in the room to ensure a more responsible standard of care.

I urge you to pass HB 154. Protect women’s health and make sure these doctors do their jobs.
Elyse Durand

My name is Elyse Durand, and I am representing myself. I am urging you to vote ‘no’ on House Bill 638. This bill is fundamentally unnecessary. Regardless of where you stand on abortions, you have to understand that they are one of the safest procedures. According to the Center for Disease Control, abortion procedures have over a 99% safety record. This means, that only .04% of the time, complications arise. Less than 1%. There is absolutely no need to waste funds scrutinizing abortion providers that have proven their ability to consistently provide safe and legal abortions.

Additionally, Idaho already requires abortion providers to report complications. In 2014, the state’s own data reports only one complication. Why are we wasting our time and efforts further scrutinizing a safe and legal medical procedure? The language and stigma surrounding abortions already produces enough shame. This bill would make abortions out to be a medically dangerous and risky procedure. It just isn’t.

Idaho has created many hurdles for women seeking safe and legal abortions. This regressive policy would force women to endure more governmental intrusion in her personal healthcare decisions. This politically-motivated bill goes far beyond what is required to improve public health. It is a waste of time, money, and resources for our state. Especially for a state that prides itself on its fiscally conservative policies, the willingness to justify spending funds on an unnecessary project is shameful.

Lastly, this bill seeks to criminalize and otherwise penalize reproductive healthcare providers from doing their jobs. I ask that you trust healthcare providers, and the evidence provided today, and vote no on HB 638.
### AMENDED AGENDA #1

**SENATE STATE AFFAIRS COMMITTEE**

8:00 A.M.

Room WW55

Friday, March 16, 2018

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
<th>PRESENTER</th>
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<tbody>
<tr>
<td>HCR 50</td>
<td>STATING FINDINGS OF THE LEGISLATURE to recognize pornography as a public health hazard and ensure such materials are not accessible from state and local government agencies internet connections.</td>
<td>Representative Lance Clow</td>
</tr>
<tr>
<td>S 1377</td>
<td>RELATING TO CAMPAIGN FINANCE as a result of the interim Campaign Finance Legislative workgroup for the purpose of increasing transparency in campaign finance statewide.</td>
<td>Lawerence Denney, Secretary of State Phil McGrane, Chief Deputy, Ada County Clerk's Office</td>
</tr>
</tbody>
</table>

*If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.*

**COMMITTEE MEMBERS**

Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

**Sen Vick**

**Sen Anthon**

**Sen Stennett**

**Sen Buckner-Webb**

**COMMITTEE SECRETARY**

Twyla Melton
Room: WW42
Phone: 332-1326
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 16, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:01 a.m. with a quorum present.

HCR 50 STATING FINDINGS OF THE LEGISLATURE TO RECOGNIZE PORNOGRAPHY as a public health hazard and ensure such materials are not accessible from state and local government agencies internet connections.

Representative Lance Clow, District 24, stated HCR 50 was intended to make a statement from the Legislature that pornography and obscene materials have become a public health problem within our communities, state, and nation. He explained how this issue affects society. Not only does it affect the immediate family through destroyed relationships but there is a cost to society at large. There are costs associated with healthcare and family finances.

This epidemic is driven by easy access to pornographic materials. It is available through smartphones, tablets, computers and any public facilities that do not filter Wi-Fi. Representative Clow stated there is no fiscal impact connected with this resolution – it is a statement to our citizens, businesses, government, and State to take action and block access to obscene material. He asked the Committee to send this bill to the floor with a do pass recommendation.

Chairman Siddoway thanked Representative Clow and stated there was one person signed up to testify.

Dr. Craig Cobia, PhD, said he represents Citizens for Decency, an Idaho non-profit organization devoted to empowering people to take a stand against pornography. He relayed statistics including how many hours people watched a pornographic web site; what age a child was exposed to such material; the percentage of young adults who watch pornography on the internet; what percent of men admit to the same; what percentage is watched on a mobile phone; and who and how many watch explicit images.

He asserted ramifications of this activity include 33 percent of divorce litigation is caused or influenced by online affairs and 30 percent of cyber affairs escalate from e-mail to phone calls to personal contact. Children are more likely to become disengaged from families, they have lower academic achievement ratings, and they exhibit behavioral and psychological problems. Much of the increase comes from the use of portable electronic devices. Dr. Cobia told of some personal experiences to demonstrate the seriousness of this issue and asked the Committee to recommend passage of HCR 50.
Senator Hill expressed appreciation to Dr. Cobia for the many years of work he has contributed on these issues, as well as his work in organizing the Citizens for Decency. Dr. Cobia has made presentations at national conferences on several occasions and is very committed to the people he serves.

**MOTION:** Senator Hill moved to send HCR 50 to the floor with a do pass recommendation. Senator Lodge seconded the motion. The motion carried by voice vote.

**S 1377 - INFORMATIONAL PRESENTATION:** RELATING TO CAMPAIGN FINANCE as a result of the interim Campaign Finance Reform Legislative Work Group for the purpose of increasing transparency in campaign finance statewide.

Phil McGrane, Chief Deputy Clerk, Ada County Clerk's Office, said he would be joined by Secretary of State, Lawerence Denney, to present information regarding campaign finance. Mr. McGrane explained it is not the intention to move S 1377 forward in this Legislative Session, but to express the need for transparency in campaign finance statewide. This issue is so important an interim committee has again been established to address campaign finance.

Mr. McGrane stated he would focus on the problem and why it needs to be addressed; he stated varying opinions exist. There was an attempt to bring a bill forward earlier in the 2018 Legislative Session that basically repealed and replaced every section of the Sunshine Law which make it very difficult to understand. S 1377 can readily be followed and will ease the process. The Secretary of State's Office plays a significant role in overseeing and enforcing the campaign finance laws. The proposed legislation would provide a greater role in the enforcement process.

The purpose of this bill is not derived from bad people, it is to build public trust – just like the Sunshine Law is expected to build public trust. The Sunshine Law shows there are good people doing good things, it changes the nature of the conversation.

Mr. McGrane stated there are two things to consider when rewriting campaign finance laws:

1. simplification of the laws to make it easier to comply. Doing so would save people from innocent mistakes; and
2. providing a simple method to access the laws. The resulting data would be invaluable.

Idaho currently has low scores regarding transparency. Mr. McGrane asserted this is not because of malefeasance, but because information is not easily accessible. Mr. McGrane explained how to access information in detail. Some of the information resides with the Secretary of State. However, there are 79 locations in the State where campaign finance reports are physically filed. The Legislative branch receives a great deal of attention, but there is also money and interest at the local levels. The Ada County Clerk's Office compiled data to show what is possible.

Mr. McGrane navigated through the data they compiled to provide an example of what could be available. See the two sites listed on Attachment 1.

This data expands reporting requirements for all elections: special elections, recall elections, petition circulation, and more. It all should be reported to the Secretary of State. Secretary Denney has already taken major steps with his reappropriation request, to start furthering the effort to bring all information to one place so that information can be shared.
Lawrence Denney, Secretary of State, stated he represents the people of Idaho as the Secretary of State (SOS). Secretary Denney challenged anyone to open the small Sunshine Law book and not have a question about what it means within the first three pages. He stated his desire to have this manual and process simplified for the following reasons: 1) it would not require a call to the SOS to find out what it means, and 2.) when the SOS gives an answer, it would be the same no matter who within the SOS office answered the question.

The Sunshine Law should be simple; if someone is expending money to influence the outcome of an election, it should be reported. The disclosure manual that interprets the Sunshine Law book is very large – over two inches thick. He stated this campaign finance bill still needs improvement. There is nothing connected to the lobbyist activities or how to deal with non-profits – non-profits are becoming a bigger portion of money coming into campaigns.

Secretary Denney referred to Mr. McGrane’s comments about the upgrade on campaign finance and lobbyist reporting and election management. When the SOS’s office receives appropriations, interviews are scheduled with three different vendors in April. The objective of the bill is to get the best features available that meet budget requirements to allow centralized campaign finance reporting. This change would centralize information of all races in the State in a searchable database. The SOS will be the repository for the data, but will not regulate the process of counties, cities, and taxing districts. SOS will continue to police the Statewide and legislative races and the reporting by lobbyists.

This bill would also put special local elections, such as recall elections, under the Sunshine Law. It would increase the frequency of reporting during the election cycle. Secretary Denney explained in detail the timeline, process, enforcement, and penalties (Attachment 2).

Secretary Denney commented that money is speech. However, the courts are clear that disclosure is required; that is the intent of the bill that will be presented in 2019.

Senator Stennett asked Mr. McGrane what were the highest contributions for Republicans and did they have contributions from outside Idaho? Mr. McGrane presented the candidates side; the largest contributor for candidates was the Sugar Beet Growers Political Action Committee.

Fred Birmbaum, Idaho Freedom Foundation (IFF), stated the IFF supports transparency and the software and data that has been presented has value to the citizens of Idaho. Consolidating and reporting the information is a much needed improvement. Mr. Birmbaum explained there were a couple of areas that were problematic:

1. The bill broadens the definition of electioneering communication to include any paid communication advertised on the Internet or through social media, but the bill makes no effort to define social media.

2. The measure removes the existing 30-60 day window prior to primary and general elections during which electioneering communication requirements apply. This expands that reporting to year around, rather than regulating speech close to the next election. It requires organizations to continually run disclaimers and disclose the names and addresses of their supporters who give as little as $50 to an organization; that requirement could potentially be challenged.

Mr. Birmbaum explained the above items in more detail but was of the opinion that the bill could be improved.
Chairman Siddoway commented about the dollar limitations on different categories of offices is, in his opinion, blatantly discriminatory. There is a long history of limiting campaign contributions to a certain amount. If the limit is going to be $5,000 at the state level, it ought to be limited to $5,000 no matter what the political office. Chairman Siddoway stated his comment is not meant to criticize, but as a consideration.

ADJOURNED: There being no further business, Chairman Siddoway adjourned the meeting at 8:55 a.m.

___________________________  __________________________
Senator Hagedorn            Twyla Melton
Vice Chair                   Secretary
Good Afternoon Senators,

Thank you again for allowing Secretary Denney and I to present on campaign finance this morning. Below are the links I shared during my presentation.

If you hover your mouse over much of the information you will see a pop up with more detail. Also, you may click on any item and it will filter the remaining information by what you clicked on. There are tabs at the top of each visualization that allow you to go between contributions and expenditures. This is an interesting way to view campaign activity in our state. If you have questions or need help with these, please ask. I am happy to help.

2016 Legislative Candidate Contributions and Expenditures

2016 Political Committee Contributions and Expenditures
https://public.tableau.com/profile/alocksmith#!/vizhome/2016PoliticalActionCommitteeExpensesContributionsUpdate/2016PACContributions

Thank you for all the work you do,

Phil
S1337 Campaign Finance Reform Bill

Statement of Purpose:

This legislation is the work of the interim Campaign Finance Legislative workgroup. Its purpose is to increase transparency in campaign finance for statewide, legislative, and local elections. This is accomplished by centralizing and streamlining the filing process for candidates and political committees and improving public access to campaign finance information. This legislation expands the applicability of the sunshine laws to all types of elections, including special, recall and local elections. It also establishes a single, searchable online database for all reporting in the State of Idaho.

Primary Changes:

- This centralizes campaign finance reporting for the entire state by creating a centralized database within the Secretary of State’s office for all campaign finance reporting. This makes it uniform for filers and centralizes access for the public and media to the disclosed information. (pg13 ln33-45)

- Reporting is expanded to include special, recall, and local elections. It is limited for to local official to only those who raise $500 or more for their campaign. (pg3 ln20, pg5 ln32-34, pg8 ln24-31)

- Narrows the oversight and enforcement to the Secretary of State and Attorney General for statewide, legislative, and judicial races and to the County Clerk and County Prosecutor for all other races. (Throughout particularly on pg12 ln13 – pg14 ln 4)

- Increases the frequency of reporting prior to an election. All candidates would need to report monthly for the 4 months leading up to an election and the month of the election. During the remaining time they would need to disclose semi-annually. (pg7 ln1-40, pg9 ln11-17)

- Defines the reporting frequency and periods for petitions to monthly during circulation (pg7 ln41-44)

- Updates the definition of electioneering communication to include email, internet and social media advertising. It also clarifies that this is for paid communication. (pg3 ln25-40)
• Requires electioneering communication to have an authority line stating who is responsible for the communication.
  (pg15 ln29-31)

• Defines the point at which an expenditure is required to be reported to ensure more timely reporting.
  (pg4 ln38)

• Increases the 48 hour reporting for donations of $1,000 or more from 16 days before the election to 45 days before when absentee ballots are mailed out.
  (pg9 ln34-42)

• Eliminates the category of “Nonbusiness entity” and treats all entities the same.
  (pg5 ln43-50, pg6 ln40-41)

• It requires that out-of-state political committees must register with the Secretary of State prior to contributing more than $1,000 within Idaho.
  (pg9 ln34-42)

• Merges the maximum penalties for violations from $250 for individuals and $2,500 for political committees to $1,000 for both.
  (pg14 ln11-13)

• Clarifies that the prohibition of coordination of independent expenditures with campaigns also includes campaign volunteers.
  (pg4 ln49-50)

• Has a delayed effective date of July 1, 2019 to allow the Secretary of State time to implement these changes.
  (pg18 ln7-8)

• Repeals other code sections that incorporated campaign finance reporting for specific local offices that are now included in the campaign finance laws.
  (pg15 ln32-pg18 ln6)

• Cleans up a few other areas of the law where the language could be simplified without substantive impact.
Primary differences between the Committees original bill H573 and S1337

- **Drafting** – H573 repealed many sections and replaced them with new similar sections and restructured the campaign finance laws in part. This made it difficult for House State Affairs committee members to distinguish what was changed in the law from what currently exists. About 75% of the questions asked of the Secretary of State during the print hearing were about existing portions of the statute and not about changes being made by the legislation. This was the primary source of contention during the hearing.

- **Modifications** - Portions were modified to be more compromising with various stakeholders:
  - H573 had a broad definition of “Electioneering Communication” that raised concerns regarding free speech, S1337 narrows the definition to paid communications
  - H573 had monthly reporting year round, S1337 narrows the timeframe to 4 months prior to the election
  - H573 increase maximum fines to $2,500, S1337 merges them to $1,000
  - H573 required further disclosure of boards of directors for out-of-state political committees contributing over $1,000, S1337 requires filing with the Secretary of State
  - H573 defined the point of an expenditure when it was obligated or contracted, S1337 defines it as when the communication reaches potential voters or when a good or service are delivered

- **Portions Removed** - Changes made in H573 were removed because there was not sufficient support for these changes:
  - H573 Required a political committee to identify its board of directors and persons with decision making power
  - H573 Requires independent expenditures and electioneering communications to disclose their top donors, and requires electioneering communications to state who is responsible for or has authorized the communication
  - H573 Prohibited a candidate having multiple campaign accounts for different offices sought
## AGENDA

### SENATE STATE AFFAIRS COMMITTEE

8:00 A.M.  
Room WW55  
Monday, March 19, 2018

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<thead>
<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
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<tbody>
<tr>
<td>MINUTES APPROVAL:</td>
<td>Minutes of February 23, 2018</td>
<td>Senators Vick and Buckner-Webb</td>
</tr>
<tr>
<td>RS26330</td>
<td>RELATING TO INITIATIVE AND REFERENDUM ELECTIONS regarding false statements concerning a petition.</td>
<td>Representative Brent Crane</td>
</tr>
<tr>
<td>RS26404</td>
<td>STATING LEGISLATIVE FINDINGS and approving administrative rules that impose a fee or charge.</td>
<td>Dennis Stevenson, Administrative Rules Coordinator, Department of Administration</td>
</tr>
<tr>
<td>RS26405</td>
<td>STATING LEGISLATIVE FINDINGS and approving and extending temporary rules reviewed by the Legislature.</td>
<td>Dennis Stevenson</td>
</tr>
<tr>
<td>H 666</td>
<td>RELATING TO ADMINISTRATIVE RULES to continue certain administrative rules in full force and effect.</td>
<td>Dennis Stevenson</td>
</tr>
<tr>
<td>HCR 44</td>
<td>STATING FINDINGS OF THE LEGISLATURE to recognize the contributions of Catholics in Idaho and celebrate the 125th anniversary of the creation of the Diocese of Boise.</td>
<td>Representative Caroline Nilsson Troy</td>
</tr>
<tr>
<td>HCR 58</td>
<td>STATING FINDINGS OF THE LEGISLATURE honoring Sheila Olsen for her commitment to Idaho.</td>
<td>Representative Jeff Thompson</td>
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<tr>
<td>H 670</td>
<td>RELATING TO SALARIES of state elective officers.</td>
<td>Representative John Vander Woude</td>
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**PAGE GRADUATION:**  
Graduation of Jayden Huston, Page for the Senate State Affairs Committee.  
Chairman Siddoway

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

### COMMITTEE MEMBERS

| Chairman Siddoway | Sen Vick |
| Vice Chairman Hagedorn | Sen Anthon |
| Sen Hill | Sen Stennett |
| Sen Winder | Sen Buckner-Webb |
| Sen Lodge |

### COMMITTEE SECRETARY

Twyla Melton  
Room: WW42  
Phone: 332-1326  
email: sstaf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 19, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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.

CONVENE: Chairman Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

MINUTES APPROVAL: Senator Vick moved to accept the Minutes of February 23, 2018. Senator Buckner-Webb seconded the motion. The motion carried by voice vote.

RS 26330 RELATING TO INITIATIVE AND REFERENDUM ELECTIONS regarding false statements concerning a petition.

Tyrel Stevenson, Legislative Director for the Coeur d'Alene Tribe, introduced RS 26330. Mr. Stevenson read an excerpt from the First Amendment to the United States (U.S.) Constitution. Mr. Stevenson said the First Amendment is the cornerstone of U.S. democracy. Within the First Amendment, there are five freedoms: religion, speech, press, assembly, and petition. The right to petition is given to the people to seek redress from the government and to legislate; it is a right held by every voter.

In 1933, Idaho enacted code setting forth rules on how petitions would occur. Idaho Code § 34-1815 made it a felony to misrepresent the contents of a petition in order to gather signatures. That statute was overturned in the case of Idaho Coalition United for Bears v. Cenarrusa (D.Idaho 2001). The statute was struck down because the law was vague and overly broad, and there was a penalty involved. RS 26330 proposes to lower the penalty from a felony to a misdemeanor and clearly specifies the conduct that is being regulated. This would potentially regulate the representations that are made to voters before they sign their name to a petition. Mr. Stevenson asked the Committee to introduce this RS so that it can be worked on during the interim in preparation for the next Legislative session.

Senator Stennett asked if the RS can be worked on during the interim even if it is not printed. Mr. Stevenson responded it could be done without being printed, but he asserted a printed bill as an actual document would be better for discussion purposes.

Senator Lodge asked if it could be done with a draft bill; she wondered why the RS was before the Committee so late in the session. Mr. Stevenson answered it could be a draft, but it is important to have a conversation about the structure of the initiative process and the importance of transparency. The legislation is late because the interest in a particular petition raised his interest in the initiative process. After completing research, this gap in the law was exposed.
Senator Winder asked what Chairman Siddoway's intent was regarding this RS. Chairman Siddoway stated the intent was to have the RS printed. He explained having the RS printed was the only way to have a bill available to the public for review and discussion. By printing the bill, it would allow discussion.

MOTION: Senator Anthon moved to send RS 26330 to print. Senator Hill seconded the motion.

Senator Winder stated his intent to print with the clear understanding it was for discussion purposes only.

Senator Hill said he agreed printing the bill was for discussion. It is not unusual to get legislation out in the public domain for discussion during the interim.

VOTE: Motion carried by voice vote.

RS 26404 STATING LEGISLATIVE FINDINGS and approving administrative rules that impose a fee or charge. Dennis Stevenson, Administrative Rules Coordinator, Department of Administration, brought this RS to the Committee.

MOTION: Senator Winder moved to send RS 26404 to print. Senator Anthon seconded the motion. The motion carried by voice vote.

RS 26405 STATING LEGISLATIVE FINDINGS and approving and extending temporary rules reviewed by the Legislature. Dennis Stevenson, Administrative Rules Coordinator, Department of Administration, brought this RS to the Committee.

MOTION: Senator Winder moved to send RS 26405 to print. Senator Anthon seconded the motion. The motion carried by voice vote.

H 666 RELATING TO ADMINISTRATIVE RULES to continue certain administrative rules in full force and effect. Dennis Stevenson, Administrative Rules Coordinator, Department of Administration, brought H 666 to the Committee.

MOTION: Vice Chairman Hagedorn moved to send H 666 to the floor with a do pass recommendation. Senator Lodge seconded the motion. The motion carried by voice vote. Vice Chairman Hagedorn will carry the H 666 on the floor.

HCR 44 STATING FINDINGS OF THE LEGISLATURE to recognize the contributions of Catholics in Idaho and celebrate the 125th anniversary of the creation of the Diocese of Boise. Representative Caroline Nilsson Troy, District 5, presented HCR 44 to the Committee.

MOTION: Senator Hill moved to send HCR 44 to the floor with a do pass recommendation. Senator Anthon seconded the motion. The motion carried by voice vote.

HCR 58 STATING FINDINGS OF THE LEGISLATURE honoring Sheila Olsen for her commitment to Idaho.

MOTION: Senator Hill moved to send HCR 58 to the floor with a do pass recommendation. Vice Chairman Hagedorn seconded the motion. The motion carried by voice vote.

H 670 RELATING TO SALARIES of state elective officers.

Representative John Vander Woude, District 22, explained that H 670 sets the salaries of constitutional officers as follows:

- The Governor – $138,302
- The Attorney General – $134,000
- The Lieutenant Governor – $35% of the Governor's salary.
- Other Constitutional Officers at 85% of the Governor's salary.
- Beginning in 2023, the Attorney General's salary at 90% of the Governor's salary.
Representative Vander Woude stated his belief that the way the Governor's salary is determined should be reviewed and the total compensation packages for all constitutional officers should be reviewed. Constitutional salaries can only be set every four years. The increases, totaling $67,000 over current salaries, are effective immediately.

**MOTION:** Senator Winder moved to send H 670 to the floor with a do pass recommendation. Senator Vick seconded the motion.

Senator Hill asked if the Idaho Attorney General's Office (AG) had approved the changes. Representative Vander Woude answered the AG's office agreed with this step.

Senator Winder indicated he worked on the committee for judge and constitutional officers' salaries this year. This approach made the most sense and provided some increase in compensation, although not a significant amount.

**VOTE:** Motion carried by voice vote.

**PAGE GRADUATION:** Chairman Siddoway called Jayden Huston to the podium. He asked her to provide her views on what she learned during her service to the Legislature, the process, and things that could be changed. Ms. Huston stated she has enjoyed the process, learned much about the system, and had no disappointments. Chairman Siddoway inquired about her future plans. Ms. Huston announced she had been accepted to the University of Idaho (U of I) and will attend in the fall to study sports medicine. Chairman Siddoway expressed his appreciation for Ms. Huston's work for the Committee, Committee Secretary, and himself. He also applauded her work ethic, and stated it was one of the best he observed.

Chairman Siddoway presented Ms. Huston with a letter of appreciation signed by the Committee members, a letter of recommendation from the Chairman, and a gift from the Committee.

Vice Chairman Hagedorn added a reminder the Idaho College of Osteopathic Medicine is starting its first class for medical doctors this fall. $3 million worth of medical scholarships will be available for Idaho students. He asked Jayden to keep that in mind when she finished her studies at U of I.

**ADJOURNED:** There being no further business, Chairman Siddoway adjourned the meeting at 8:25 a.m.

___________________________
Senator Hagedorn
Vice Chair

___________________________
Twyla Melton
Secretary
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<tr>
<th>SUBJECT</th>
<th>DESCRIPTION</th>
<th>PRESENTER</th>
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<tbody>
<tr>
<td>HP 1</td>
<td>THAT THE JOYCE LIVESTOCK COMPANY AND THE LU RANCHING COMPANY should be reimbursed from the constitutional defense council fund.</td>
<td>Representative Megan Blanksma and Representative Judy Boyle</td>
</tr>
</tbody>
</table>

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS
Chairman Siddoway
Vice Chairman Hagedorn
Sen Hill
Sen Winder
Sen Lodge

COMMITTEE SECRETARY
Twyla Melton
Room: WW42
Phone: 332-1326
e-mail: staf@senate.idaho.gov
MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 21, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, 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 Siddoway called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

HP 1 A PROCLAMATION IN SUPPORT OF REIMBURSEMENT FOR JOYCE LIVESTOCK COMPANY AND THE LU RANCHING COMPANY from the Constitutional Defense Fund.

Representative Blanksma, District 23, addressed the unanimous decision in the case brought by Joyce Livestock Company (Joyce) and LU Ranching Company (LU) against the United States (U.S.) 2007 in the Idaho Supreme Court. Representative Blanksma said the decision affirmed the stockwater rights of Joyce/LU and established precedent setting water law that restored, maintained, and advanced the sovereignty of the State of Idaho over its water in the face of incredible federal overreach. She described in detail the positive outcome for stockwater rights and the pertinent water rights attendant to deeded ranches.

It is important to note, under the Snake River Basin Adjudication (SRBA) of 1997, the State did not contest the Bureau of Land Management’s (BLM) claim to water rights with a priority date after 1934 in the Joyce/LU case. Without the Joyce/LU case, there would have been no claim by the State over its sovereignty to stockwater rights. For the last two years, the State of Idaho has been codifying the results of the Joyce/LU decisions. In the last eleven years, Joyce/LU have continued to pay the legal bills. Through this lawsuit, the State and over 17,000 stockwater rights owners have regained a public right, yet the participants in the lawsuit continue to struggle with legal fees associated with their efforts. They have managed to negotiate those fees from $1 million each down to $300,000 (each).

Representative Blanksma stated, legally, the Legislature does not have the ability to pass legislation for private purposes. HP 1 does not recommend such legislation. There is no legislation pending in the House or in the Senate to pay the ranchers' fees. HP 1 only supports the use of the Constitutional Defense Fund (CDF) to support the ranchers under the mandate of Idaho Code § 67-6301 to restore, maintain, and advance the sovereignty and authority of the State and the well-being of its citizens.

As enumerated in Idaho Code § 67-6301(4)(e), the Constitutional Defense Council’s (Council) ability to examine and challenge federal law, regulations, and practices applied to Joyce/LU as shown in Idaho Code § 67-6301(2) that authorizes the Council to expend funds for the purposes of restoring, maintaining, and advancing the authority of the State over issues like the State's ownership and control over its waters as set forth in the Joyce/LU cases. (Letters in support of HP 1 –Attachments 1-4).
**Senator Winder** questioned the fiscal note of $600,000 from the CDF as this proclamation would not authorize payment. **Representative Blanksma** said the reason the fiscal note reflected $600,000 was for transparency. There could potentially be a fiscal impact, but only if the Council takes action. **Senator Winder** emphasized, although the proclamation does not authorize any funding, the fiscal note may give the appearance it does.

**Senator Stennett** asked if the State has paid attorney's fees for any other industry or profession in the State. **Representative Blanksma** responded she was not an attorney and was only familiar with this case.

**Senator Brackett,** District 23, said the theme of his testimony is "the State got it wrong." The fact that the State got it wrong complicated the challenge Joyce/LU faced. **Senator Brackett** provided excerpts from statements by Tim Lowry, LU, and Paul Nettleton, Joyce, as well as parts of the court proceeding where some of these errors occurred.

Various excerpts from the statement made by Tom Lowry, LU who was one of the defendants: The State abandoned both Idaho water law and individual legitimate owners of stockwater rights under Idaho law. The State elected not to contest the basis of the water rights to stockwater claims after passing the Taylor Grazing Act of 1934 (43 § 315). The U.S. received stockwater rights by default and Idaho citizens were left alone to defend their rights against the U.S.

The U.S. saw no opposition from the State – the U.S. was free to aggressively attack the legitimate claims of individual stockwater users because Idaho allowed the U.S. to acquire the rights perfected by private appropriators and created a situation where it was extremely difficult for private parties to defend their rights. Consequently, a massive taking occurred without just compensation.

Various excerpts from the statement by Paul Nettleton of Joyce: The Department of Water Resources (Department) and an attorney recommended the claims for the BLM; this was in direct violation of western water law which had been recognized for 140 years. This action emboldened the BLM and gave them new impetus to challenge ranchers and secure the rights to Idaho water and the rights of Idaho ranchers.

**Senator Brackett** said the State was wrong, the law was clear; BLM could not claim beneficial use of stockwater when they did not own stock. The ranchers' stock use far predated the Taylor Grazing Act. In the case of Joyce, they have been in Owyhee County since 1878; over 150 years of stockwater use. Joyce (Paul Nettleton) was determined to pursue the case even though the U.S. Department of Justice negotiators quietly confided to Joyce's attorneys that they might win, but it would be expensive enough to put them into bankruptcy.

**Senator Brackett** shared examples of where he believes the State got it wrong including the holding of LU re: SRBA Case No. 39576. **Senator Brackett** emphasized the result of this ruling caused a situation where Joyce/LU were not only fighting the federal government, they were fighting the State. He stated he is fully in support of this proclamation.

**Senator Stennett** referred to an Attorney General's (AG) opinion on HP 1 that cites questions about the propriety of using public dollars for private interests. It cites the *State of Idaho v. Hagerman Water Right Users* (Idaho 1997). The Idaho Supreme Court rejected a claim by water right holders for their attorney's fees under the private Attorney General doctrine reasoning that part of the right of water holders in the case could not be given to private interests. She asked if the Legislature agrees to this proclamation, how many different industries and professions that may have been wronged by the State will ask the State to pay their legal fees out of the CDF or other sources. **Senator Brackett** recalled that opinion does give the Council latitude.
Each case has its own unique set of circumstances and this one also has circumstances that differentiate it from the *Hagerman* case.

**Vice Chairman Hagedorn** commented the AG will provide the history and AG opinions to the Council to be debated and discussed when making a determination.

**MOTION:** **Vice Chairman Hagedorn** moved to send HP 1 to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

**Senator Hill** declared a possible conflict of interest pursuant to Senate Rule 39(H); he is a member of the Council which this proclamation was designed to influence. He stated he plans to vote.

**Senator Winder** stated he supports the proclamation but would like a definitive explanation of where Idaho Code provides the right to the Council to spend money. The advantage of the proclamation is, it is purely advisory and allows the Council to do what it deems best under the Idaho Constitution and Idaho Code.

**Chairman Siddoway** commented this issue has been before a germane committee where the Joyce and LU Ranches testified. He stated his opinion that the State had some culpability during the SRBA process and the issue should have been resolved at that time. This case had a broad-scale effect regarding 17,800 stockwater rights in the State that are under federal control through either the U.S. Forest Service or the U.S. Bureau of Land Management. **Chairman Siddoway** stated he leases a number of those allotments from those federal agencies. The proclamation should continue through the process and show support to the Council.

**Senator Stennett** stated there are thousands of water users in her district who have senior water rights, but do not get the water. Only one case was pursued to no avail. She expressed concern about setting a precedent.

**Representative Blanksma** addressed concerns that were raised. Multiple private entities have been reimbursed from the CDF. She stated it is within the purview of the Council to review this case under Idaho Code §§ 67-6301(5) and 67-6301(4)(e). **Representative Blanksma** asked for approval of **HP 1** to allow the Council to examine the Joyce and LU case.

**VOTE:** The motion carried by **voice vote**. **Senator Stennett** and **Senator Buckner-Webb** were recorded as voting **nay**.

**ADJOURNED:** There being no further business, **Chairman Siddoway** adjourned the meeting at 8:25 a.m.

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Senator Hagedorn
Vice Chair

Twyla Melton
Secretary
March 10, 2018

TO: Members of the Idaho House of Representatives

FR: Carol Fitch, President
Food Producers of Idaho

Distributed by Representative Megan Blanksma

HP001

Food Producers of Idaho, representing over forty agriculture commodity and farm organizations in Idaho and the Pacific Northwest voted to support and track HP001. With the majority of Idaho land being public, we understand the value of ranching and agriculture in the economy of our state. Water is vital to the success of our industry and HP001 helps to protect that water in support of our Constitution.

In 1993 LU Ranching and Joyce Livestock filed the original lawsuit for instream water rights in Idaho. They incurred over $1 million each in attorney fees. The defendant in the lawsuit was the Bureau of Land Management (BLM) which had filed many claims for water rights with the Idaho Department of Water Resources (IDWR). IDWR granted said claims in the 1992 Snake River Adjudication, but as the BLM could not show beneficial use, they had no right to the water under state law. At the time, the state did not see it necessary to force the issue so LU and Joyce Livestock took it upon themselves to do so.

LU Ranching Company and Joyce Livestock Company successfully defended their rights to the in-stream use of water which in turn solidified Idaho’s sovereignty over all waters within the borders by a unanimous decision of the State Supreme Court.

The Constitutional Defense Fund was created for just such occurrence - a private individual or entity taking it upon themselves to defend their rights under state law, set forth by our Constitution. Food Producers of Idaho agrees that state resources should be used at any time to support any citizen or entity that brings forth a decision by a court that strengthens our Constitution.

Food Producers of Idaho is asking for your support of this measure and the expenditure of funds from the Constitutional Defense Fund in repayment to LU Ranching Company and Joyce Livestock Company on behalf of Idaho’s ranching and agriculture industries.

Membership listed on the back of this letter

HP001_house
March 19, 2018

Distributed by Rep. Megan Blanksma
March 21, 2018 – Attachment Z
HP 1

Re: Please support HP1 – Stockwater Rights, Fee Payment

Ladies and Gentlemen of the House:

On behalf of the more than 78,000 member-families of the Idaho Farm Bureau Federation, I write to express our support of HP1. This proclamation expresses support for two Idaho ranching families who defended the state’s sovereignty over stockwater on federal lands.

In 2007, the Idaho Supreme Court made several important rulings in the cases of Joyce Livestock Co. vs. the United States of America and LU Ranching Co. vs. the United States of America. The Court, ruling in favor of the ranchers, determined stockwater rights on federal lands are an appurtenance to the base property, the federal government cannot put the stockwater to beneficial use, and the federal government can not avail itself of the constitutional method of appropriation to obtain a stockwater right from the state. The ranchers won this landmark court case that has set a precedent across the entire West; however, they were forced to foot the attorney bill.

The state of Idaho failed on two separate occasions to defend the state’s water. First, when the federal agencies filed for tens-of-thousands of stockwater rights during the Snake River Adjudication, IDWR recommended their approval to the adjudication court. The agency completely disregarded Idaho water law that requires proof of beneficial use. Second, the Attorney General failed to protect and defend the State’s constitutionally protected water rights. This ultimately left the ranchers on their own to defend the State’s water rights against the federal government.

This proclamation remedies this situation, using funds from Constitutional Defense Council Fund to reimburse both Joyce Livestock Co. and LU Ranching Co. for their attorney fees. This court case was a win for the entire State and West, and it should have been fought by the State in the first place. It is time for the State to step-up and pay for the cost of defending Idaho’s water rights.

On behalf of the entire membership of the Idaho Farm Bureau, I thank you for your consideration of these comments. We respectfully request your support for HP1.

Sincerely,

Bryan Searle, President
Idaho Farm Bureau Federation
March 14, 2018

Dear Representative,

The Idaho Cattle Association (ICA) requests your support of House Proclamation 1 regarding the reimbursement of fees that Joyce Livestock Co. and LU Ranching Co. incurred for restoring, maintaining and advancing the sovereignty and authority of the state of Idaho over stockwater rights. The precedent setting cases and decision were not taken lightly by the ICA ranching family members who championed this cause which victoriously benefitted all Idaho water right holders.

Thanks to the tireless efforts of the ranchers involved in the Joyce Livestock Co. and LU Livestock Co. v. United States of America cases, the Idaho Supreme Court has held that stock water beneficial use could only be claimed by entities that own livestock, and that federal ownership or management of land does not constitute beneficial use. Securing these stock water rights is an important step in preserving continued, sustainable grazing access which is a benefit to all of Idaho’s citizens. Therefore, Joyce Livestock Co. and LU Ranching Co. should receive funds from the Constitutional Defense Council Fund to offset the attorneys fees paid by them to restore the authority of the State of Idaho over stockwater rights on federal lands.

For these reasons, ICA requests your support of House Proclamation 1. Thank you for your time and consideration.

Sincerely,

Tucker Shaw
President
Idaho Cattle Association
March, 17 2018

Support of House Proclamation 1

Idaho is majority public land, as well as our County. The Federal Government owns nearly 76% of Owyhee County. Ranching and agriculture is the life blood of our rural economy. Water is the one thing that makes that all possible. The act of grazing livestock on public land for the economic benefit of our membership, this County, and the State, would be greatly diminished without the court’s decision. LU Ranching Company and the Joyce Livestock Company not only successfully defended their rights to the in-stream use of that water. They also solidified Idaho’s sovereignty over all waters within its borders by a unanimous decision of the State Supreme Court.

This situation is precisely what the Constitutional Defense Fund was set up for. A private individual or entity taking it upon themselves to defend their rights under our States laws set forth by our Constitution. We feel that the State’s resources are well used in support of any citizen that brings forth a decision by a court that strengthens our Constitution.

We believe it is of the utmost importance that the Legislature of the State of Idaho support House Proclamation 1. I am asking you, the representatives of our great State to do the right thing. To support its citizens who have defended our Constitution for themselves, and all Idahoans.

Sincerely,

Lynn L Bachman
OCA President
(208) 845-2125
ltcattle@hotmail.com

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