

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 08, 2019

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, 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: **Chairwoman Lodge** called the Senate State Affairs Committee (Committee) to order at 8:02 a.m.

GUBERNATORIAL APPOINTMENT: **THE GUBERNATORIAL APPOINTMENT** of Jeff Weak as the Administrator of Information Technology Services of Eagle, Idaho, term commencing January 7, 2019 and serving at the pleasure of the Governor.

Mr. Weak provided a brief overview of his background. He noted his current accomplishments, including the creation of Information Services (IT), which serves as a catalyst for the Governor's modernization initiative. He stated he revamped the IT purchasing process for four executive branch agencies, which drives more strategic purchasing decisions for IT products and services. This process has already saved the State over \$250,000 in a few short months. Significant improvements have been made to the state's cybersecurity by instituting the Center for Internet Security critical controls. IT has partnered with the Idaho Division of Human Resources (IDHR) on the state's first mandatory annual cybersecurity awareness training program. **Mr. Weak** stated he looked forward to serving the citizens of Idaho.

DISCUSSION: **Senator Souza** asked Mr. Weak for a quick assessment of cybersecurity and the IT system and how it is integrated in Idaho. **Mr. Weak** stated he gave the State a grade of "B" for cybersecurity. He reported if the first five controls for internet security are addressed, then the 85 percent of the known threats and vulnerabilities can be minimized or mitigated. He further explained there is a new compliance division coming this year and a system for criminal justice systems. Data has to be locked down and secured.

Chairwoman Lodge indicated the Committee would vote on the Gubernatorial appointment at the next meeting.

RS 27080 **UNANIMOUS CONSENT REQUEST** from the Senate Transportation Committee for a Joint Memorial to acknowledge Idaho's water rights.

Senator Brackett reported the Joint Memorial is requesting that Congress, the President, the Idaho Department of the Interior, the Idaho Department of Agriculture, and the U. S. Forest Service respect and acknowledge Idaho's sovereignty over its water rights, its right-of-way for use of water rights, and its desire to remove bureaucratic roadblocks that interfere with Idaho water users' use of their water rights.

MOTION: **Senator Vick** moved to send **RS 27080** to print. **Vice Chairman Harris** seconded the motion. The motion carried by **voice vote**.

RS 27013C1

UNANIMOUS CONSENT REQUEST from the Senate Education Committee relating to Charter Schools.

Senator Winder reported charter schools are public schools supported by taxpayer dollars, but too many of those dollars flow right out of the classroom to make interest payments on bonds. Traditional public schools have access to credit enhancements and other financing tools that help lower interest rates on bonds. This bill would create a credit enhancement to help seasoned, stable, public charter schools obtain lower interest rates on bonds so more taxpayer money can stay in the schools. No legal obligation would be created for the State, but a moral obligation would be created.

Senator Winder noted there is no required expenditure from the General Fund. This bill calls for creating a separate fund in the State Treasury to give lenders comfort that if no other money is available, there is a backstop to cover a potential missed payment. The Legislature may appropriate new money or transfer from existing funds for this purpose with no minimum or specific amount required. Participating schools are required to pay into the fund.

MOTION:

Senator Souza moved to send **RS 27013C1** to print. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

RS 27075

UNANIMOUS CONSENT REQUEST from the Senate Education Committee relating to Superintendent and Chief Administrator Evaluations.

Senator Lent reported this legislation assists school boards to complete required annual evaluations for superintendents. It provides sample evaluation criteria, which is approved by the Idaho State Board of Education (ISBE), or allows the school boards to create their own customized superintendent evaluation based on core elements from the ISBE. The intent is to clarify the process and allow school boards to bring focus to a minimal number of key performance indicators associated with student achievement. Additionally, this will utilize existing reporting and bring uniformity to the process of accountability concerning senior level leadership in the Local Education Agencies (LEAs).

MOTION :

Senator Buckner-Webb moved to send **RS 27075** to print.

Senator Hill queried why this bill was brought so late in the session. **Senator Lent** explained there was more to the bill originally, but decided to cut it back to this level this year.

Senator Anthon seconded the motion. The motion carried by **voice vote**.

RS 27050, RS 27051, AND RS 27052

UNANIMOUS CONSENT REQUEST from the Senate Local Government and Tax Committee Relating to Rule Rejections.

Senator Hill explained Senator Rice was unable to be at the meeting, but these are resolutions in order to reject certain dockets of the rules that the Senate Local Government and Tax Committee agreed upon.

MOTION:

Senator Hill moved to send **RS 27050, RS 27051, and RS 27052** to print. **Vice Chairman Harris** seconded the motion. The motion carried by **voice vote**.

RS 27073

RELATING TO RESIDENTIAL SOLAR ENERGY SYSTEM DISCLOSURE ACT (RSESDA) to add a new chapter to Idaho's protection title.

Senator Winder reported this proposed legislation adds a new chapter to Idaho's consumer protection title to provide that all retailers of solar energy

systems sold to residential consumers deliver certain disclosures in writing. This would protect the consumer and discourage the growing practice of over-representing the performance of the solar energy product, which is typically not discoverable until months, if not years, after the sale. It is also common that they are misrepresenting affiliations with utility companies or other energy-related service providers. The chapter provides the Attorney General with the consumer protection powers standard to other chapters in Idaho's consumer protection title.

MOTION: **Senator Anthon** moved to send **RS 27073** to print. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

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

RS 27079 RELATING TO CAMPAIGN FINANCE.

Chairwoman Lodge reported this legislation is the work of the Interim Campaign Finance Committee (ICFC), made up of five members from the House and five members from the Senate. The ICFC met six times throughout the spring, summer, and fall of 2018. This bill, which reflects the work of the ICFC, will update filing deadlines for reporting independent expenditures and electioneering communications. Certain disclosures and definitions updates are required by this proposed legislation. **Chairwoman Lodge** stated this is late because of corrections to the previous bill **S 1114**.

MOTION: **Senator Anthon** moved to send **RS 27079** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

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

H 124 RELATING TO THE MILITARY to revise provisions regarding the Model State Code of Military Justice.

Major Stephen Stokes, Staff Judge Advocate, Idaho National Guard, Military Division, reported this legislation seeks to amend and update Idaho Code, Title 46, Chapter 10, Militia and Military Affairs (MMA) to align with the Uniform Code of Military Justice, which was revised by the federal Military Justice Act of 2016. He noted the revisions seek to: 1.) avoid duplication of processes and procedures where local law enforcement (LLE) can satisfy adjudication of offenses and align the MMA with the civilian code where practical; 2.) establish consistency across cases to produce more uniform application of the law; enhance continuity of legal processes when transitioning from state to federal status; retain uniquely military processes for uniquely military offenses; and apply these changes to Army National Guard, Air National Guard, and militia upon activation; 3.) implement key changes that include modernizing the criminal code to add offenses such as computer crimes, workplace retaliation, revenge porn, and credit card fraud; update definitions of processes regarding court martial panel composition; and eliminate offenses where LLE would prosecute the crime, for example, driving under the influence (attachment 1).

DISCUSSION: **Vice Chairman Harris** inquired about the definition of the word "dueling" in the bill. **Major Stokes** gave a brief historical definition and explained that "dueling" was an offense in military code and a historical carryover.

Senator Winder queried what types of crime victims are included in the proposed legislation. **Major Stokes** stated the change in Idaho Code mirrors the Idaho Constitution. The victim has a right to notification and to appear and participate in proceedings throughout the life of the proceedings. In the current version, those rights do not exist in statutory authority. This bill adds protections to the victims in the event they are not being involved in military criminal tribunals.

Senator Hill referred to the rights of victims to be protected from the accused and asked if there had been any comments or resistance from others. **Major Stokes** remarked this has not been an issue.

Senator Buckner-Webb queried if civilian employees on military bases are covered. **Major Stokes** stated civilians are not covered. The military justice system only applies to National Guard members. He noted if a civilian commits a crime against a member, Idaho courts would handle those offenses.

MOTION:

Senator Anthon moved to send **H 124** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

S 1178

RELATING TO EXPLODING TARGETS to make Idaho Code on State lands consistent with federal land laws.

Senator Stennett reported this legislation is to make Idaho Code on state lands consistent with federal land laws prohibiting exploding targets during the designated fire season. Exploding targets refers to any device for use as a target consisting of flammable substances or substances capable of exploding when struck.

Senator Stennett indicated use of these devices has caused catastrophic wildfires that have endangered lives, burned hundreds of thousands of acres, and cost millions of dollars. This legislation would expand Idaho Code to prohibit exploding targets on any state land, classify the crime as a misdemeanor, and reiterates a judge's discretion for sentencing terms and cost recovery for damages. This legislation does not apply to private property or any public or private shooting range that has a permit or governmental approval (attachment 2).

Senator Stennett noted the most popular kind of exploding target, which can be purchased at most department stores, are binary exploding targets. These targets are ammonium nitrate and aluminum powder. Once the two substances are mixed, they become explosive. Tannerite exploding targets are some of the most popular. Arson is already covered under Idaho Code and is a felony. **Senator Stennett** referred to several major fires in Idaho that were started from exploding targets (attachment 3).

DISCUSSION:

A discussion ensued with **Senator Stennett, Vice Chairman Harris, Senators Anthon** and **Vick** regarding fire permits, gun ranges, the exclusion of private land, and the window of time for fire season. They discussed the guidelines on federal lands, state codes, and the expansion of burning season dates, making them consistent with federal code.

TESTIMONY:

Brian Haagenon, Division Administrator, Operations, Idaho Department of Lands (IDL), provided information on the firearms-related fires and the use of guns to shoot at exploding targets. He noted that prior to 2017 any firearms-related fires caused by a firearms-related incident were tracked only as a miscellaneous fire. A reduction of this type of risk during the closed fire season would be a positive outcome.

DISCUSSION:

Senator Vick and **Mr. Haagenon** discussed starting a fire illegally, the expenses of firefighting, and the banning of exploding targets during fire season.

TESTIMONY:

Jonathon Openheimer, Government Relations Director, Idaho Conservation League, testified in support of the bill. He stated fires in Idaho are a big concern. In answer to a question posed by Senator Hill, he remarked it was better to

address the situation prior to the start of a fire. **Mr. Openheimer** said it would be entirely appropriate to implement this statute because of the threat that exploding targets pose on public and endowment lands as well as to homes and property adjacent to those lands.

DISCUSSION: **Senator Souza** queried what the consequence would be for not following the requirements of clearing a three-foot circle around someone smoking a cigarette on state or federal lands versus that for using an exploding target. **Mr. Openheimer** reported the violations of stage 1 fire restrictions and stage 2 are punishable by fines of not more than \$1,000 and/or imprisonment for not more than 12 months at the federal level. This proposed legislation would carry similar penalties.

Senator Stennett thanked the Committee, stating this bill allows all to work together.

MOTION: **Senator Buckner-Webb** moved to send **S 1178** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Anthon** moved to approve the Minutes of January 23, 2019. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

Senator Souza moved to approve the Minutes of February 25, 2019. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

MOTION:

MOTION:

ADJOURNED: There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 9:04 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary

Assisted by Linda Kambeitz