

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Tuesday, April 02, 2019

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, Stennett, and McCoy(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 8:04 a.m.

**Chairwoman Lodge** moved the Minutes approvals to the top of the agenda.

**MINUTES APPROVAL:** **Senator Winder** moved to approve the Minutes of February 8th, 2019. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

**Vice Chairman Harris** moved to approve the Minutes of March 4th, 2019. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**Senator Hill** moved to approve the Minutes of March 18th, 2019. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

**H 296** **RELATING TO INITIATIVES** to revise the time and number of legislative districts in which to gather signatures. Testimony will be limited to 1 minute. Please have written copy.

**Senator Grow** presented **H 296** as a trailer bill to **S 1159**. **Senator Grow** stated the first section changes the language from 180 days to 270 days. The second section addressed in the bill changes the language from 32 legislative districts to two-thirds of the legislative districts.

**DISCUSSION** **Senator Stennett** asked who was at the table when **H 296** was created, why the House and Senate thought the new numbers are workable compared to **S 1159** and why there wasn't consideration for changing registered voters to electors. **Senator Grow** responded that the drafting of the bill is confidential and they felt that extending the time from 180 days to 270 days was more workable. **Senator Grow** stated they considered all of those factors and decided that the 1933 standards were the best.

**TESTIMONY** The following participants spoke against **H 296**:

- Colin Nash, representing himself (attachment 1).
- Zach Reeder, representing himself.
- Rialin Flores, Program Director of Conservation Voters of Idaho.
- Kari Overall, Idaho Education Association.
- Brenda Foster, representing herself.

- Gary Moncrief, Professor of Political Science, Boise State University.
- John Segar, retired fireman.
- Roberta DaMico, representing herself.
- Ritchie Eppink, Legal Director of the ACLU.
- Kathy Griesmeyer, Policy Director of the American Civil Liberties Union (ACLU).
- Sam Sandmire, representing herself.
- Tracy Olsen, representing herself.
- Ashley Prince, representing herself.
- Jayson Taylor, representing himself.
- Jeremy Redman, representing himself.
- Stephanie Hansen, representing herself.
- Jordan Morales, representing himself.
- Jocelyn Plass, representing herself.
- Jason Hudson, legal counsel for AFL-CIO.
- Dianne Jensen, representing herself.
- Cindy Mueller, representing herself.
- Catherine Carmine, representing herself.
- Rebecca Schroeder, Reclaim Idaho.
- Ken Harris, representing himself.

The points they made were

1. **H 296** is unconstitutional.
2. To prevent out-of-state interest groups ballot initiatives.
3. To prevent our state from emulating Wyoming's ballot initiative model.
4. **H 296** does not empower local voters, but takes power away from them.
5. Grassroots opposition to the bill via the thousands of calls and e-mails made to the Governor's office.

Russ Hendricks, Idaho Farm Bureau, spoke against **H 296** because of their support for **S 1159**. (attachment 2 for all written notes from those who testified)

**DISCUSSION:** **Senator Stennett** asked Collin Nash if Wyoming has a fiscal analysis component to their initiative process, and if he believed there will be a legal challenge to this bill if it gets passed. **Mr. Nash** responded that there were no such requirements, and Wyoming hasn't changed their initiative standards since 1988. **Mr. Nash** argued that Wyoming's standard is unworkable and unreasonable, and it wouldn't stand legal muster.

**Senator Winder** asked Mr. Nash to state who he represented and his background. **Mr. Nash** stated he was a third-year law student at Concordia.

**Senator Souza** asked if the Wyoming standards have been challenged. **Mr. Nash** stated that wasn't part of his analysis, because Idaho standards are specific to Idaho case law.

**Senator Winder** asked Rialin Flores if she knew the ratio of urban to rural voters. **Ms. Flores** stated that she did not know the number, but would provide all necessary information to the Committee.

**Senator Winder** asked Kari Overall if she had done a comparison to the Luna Laws and the Governor's Taskforce on Education. **Ms. Overall** stated that she did not, but she could provide that information to the Committee.

**Chairwoman Lodge** asked when Ms. Overall started volunteering. **Ms. Overall** stated her first signature gathering was in December of 2017, and she worked through October of 2018.

**Chairwoman Lodge** asked if Professor Moncrief knew of any initiatives brought in Wyoming. **Professor Moncrief** responded that only one initiative has made it on the ballot since 1988.

**Senator Winder** questioned Professor Moncrief about his concerns for population changes in state districts, and if they took those concerns to the extreme, there would only be elections every ten years. **Professor Moncrief** stated the only point he was making was that the emergency clause in the bill makes that disparity much worse.

**Senator Stennett** presented a scenario to Professor Moncrief where four districts can effectively veto any referendum. **Professor Moncrief** noted that scenario isn't present in **H 296**, however, the registered voter standard is still problematic.

**Senator Winder** asked Kathy Griesmeyer if you take her and Professor Moncrief's points to their logical conclusion, how do you not require elections every 10 years. **Ms. Griesmeyer** stated when you have a geographic distribution requirement and a varied number of registered electors, there are legal concerns to the 14th Amendment's Equal Protection Clause as it pertains to the legal concept of, "One Person, One Vote."

**Senator Hill** asked Ms. Griesmeyer if the ACLU prefers **H 296** over **S 1159**. **Ms. Griesmeyer** stated that both bills have constitutional concerns and they object to both bills, they do not believe **H 296** alleviates the concerns from **S 1159**.

**Senator Stennett** asked Ritchie Eppink if it was proper for the Attorney General's office to use the Dredge case as an example. **Mr. Eppink** responded that the Dredge case provides helpful clues in what the Idaho State Supreme Court would analyze, and he believes the existing requirements as is are unconstitutional, and **S 1159** and **H 296** are even more unconstitutional.

**Senator Winder** asked Mr. Eppink the same question about the disproportionality of districts that he asked of Professor Moncrief and Ms. Griesmeyer. **Mr. Eppink** responded that his question addresses an important point that gets glossed over, and that is "One Person, One Vote" and the fact that the courts tolerate disproportionate districts between censuses. **Mr. Eppink** concluded they are talking about the ballot access, and not the ballot box and when the legislature imposes requirements on the initiative process it limits the ability of the people of the state of Idaho to actually vote on something in the first place.

**Senator Vick** asked why the existing law hasn't been challenged yet if it is unconstitutional. **Mr. Eppink** responded that the legislature has kept them busy with other unconstitutional laws, and they have had to prioritize their cases.

**Senator Souza** asked Tracy Olsen if she understood that a no vote on **H 296** would lead to **S 1159** being the law, and she asked why shouldn't the state change its initiative process with the advancements in technology. **Ms. Olsen** stated technology doesn't change the fact they have to register door to door, nor does it change the amount of people needed to get an initiative passed. **Senator Souza** clarified the rationale for **H 296** and stated that both Propositions 1 and 2 got enough signatures before the deadline for both initiatives to be on the ballot. **Senator Souza** further stated **H 296** is needed to combat out-of-state tech firms

specializing in voter initiatives where they do not always "bring forth the agenda the people in the state really want." **Ms. Olsen** asked the Committee if anyone had spent time working on an initiative in the state and challenged members of the Committee about the out-of-state money that they may take to get re-elected.

**Chairwoman Lodge** commented that she took part in the recent Proposition 1 initiative, and stated that its important for ballot initiatives to be subjected to the same financial obligations that elected officials are subjected to.

**Senator Stennett** asked Russ Hendricks if he had participated in an initiative campaign and if he had any concerns that **H 296** or **S 1159** could subject the State of Idaho to wealthy out-of-state interests. **Mr. Hendricks** responded that he hasn't participated in an initiative process, but he has campaigned for elected officials.

**Mr. Hendricks** further stated that **S 1159** does not impose any additional burdens that other states do not have, and concluded that if there is something that is good for both urban and rural Idahoans, then it will get on the ballot.

**Chairwoman Lodge** asked Jason Hudson if he felt it would be impossible for an initiative to make it onto the ballot if **H 296** was passed. **Mr. Hudson** responded that the process would make it so difficult that it will be nearly impossible to get an initiative on the ballot.

**Senator Winder** commented that the other portion of the constitutional amendment that people keep neglecting, the legislature has the duty to regulate initiatives.

**Senator Winder** stated **H 296** is an effort to listen to the testimony of **S 1159**, and they specifically made concessions.

**Senator Souza** asked Ken Harris where he got his information about the number of calls and e-mails the Governor's office had received about **H 296** and **S 1159**.

**Mr. Harris** stated he read the figures online, and he had no official documentation on him. **Senator Souza** lamented that these numbers can't be trusted, and that they are hearsay.

**Senator Grow** concluded that he finds it interesting that both the House and Senate have made efforts to make the initiative process easier, and people are still against this legislation. **Senator Grow** noted neither **S 1159** or **H 296** change the requirements for "qualified electors" and noted the concessions made in **H 296** in comparison to **S 1159**.

**Senator Stennett** asked why this bill came through the process that it did, why it simply wasn't amended, and she asked about the "lack of rigor" from stakeholders.

**Senator Grow** responded that he doesn't determine what process the House chooses, but he and a small group of Senators did confer with them.

**Senator Hill** asked how many other states require 10 percent or more registered voters in each district. **Senator Grow** responded that 11 of 26 states with an initiative process have the standard of 10 percent of votes cast. **Senator Hill** commented that although they can have to the same rate, when you apply that to a different population, you do not get an apples-to-apples comparison. **Senator Stennett** commented that no other state has a 10 percent requirement for registered voters.

**Chairwoman Lodge** asked how many states do not offer initiatives. **Senator Grow** stated that there were 24.

**TESTIMONY:** After conferring with Marissa Morrison, Governor Little's Press Secretary, and as of Friday night, **Mr. Harris** confirmed that the Governor's office had received 2,502 e-mails and phone calls opposing **H 296** and **S 1159**, and 9 in favor.

**MOTION:** **Senator Souza** moved to send **H 296** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Stennett** moved that **H 296** be held in Committee. **Senator McCoy** seconded the motion.

**DISCUSSION:** **Senator Hill** commented that all parties worked really hard to get concessions to **S 1159** and he believes that this bill is a great reflection of that. **Vice Chairman Harris** was a strong supporter of **S 1159**, and supports Senator Stennett's substitute motion, but for the opposite reason that she supports it. **Senator Winder** talked about the rigorous process that **H 296** went through, and believes the bill is an improvement and supports the original motion. **Chairwoman Lodge** remarked that **H 296** puts the initiative process in a better position than **S 1159**; she supports the original motion.

**VOTE ON SUBSTITUTE MOTION:** The substitute motion failed by **voice vote**. **Senator Stennett**, **Senator McCoy**, and **Vice Chairman Harris** requested that they be recorded as voting aye.

**VOTE ON ORIGINAL MOTION:** The motion to send **H 296** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Stennett** and **Senator McCoy** requested to be recorded as voting nay.

**ADJOURNED:** There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 10:15 a.m.

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Senator Lodge  
Chair

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Twyla Melton  
Secretary

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Assisted by Tyler Brock