

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, January 22, 2020

**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** convened the Senate State Affairs Committee (Committee) at 8:00 a.m.

**RS 27355** **A JOINT RESOLUTION PROPOSING AN AMENDMENT OF THE CONSTITUTION OF THE STATE OF IDAHO** authorizing warrantless misdemeanor arrests based on probable cause.

**Senator Grant Burgoyne**, District 16, explained that the Idaho Supreme Court in *State of Idaho v. Peter O'Donald Clarke* (Clarke) in June of 2019, created some complicated issues. **Senator Burgoyne** said if we adopt this constitutional amendment, it would legitimize current process according to the Clarke decision. He referred to the opinion from the Attorney General's Office (Attachment 1).

**Senator Burgoyne** said the Joint Resolution proposes an amendment to Article 1, Section 17 of the Constitution of the State of Idaho (Constitution) that would expressly authorize law enforcement officers to make warrantless misdemeanor arrests based upon probable cause when the offense in question is not committed in the officer's presence. Idaho Code § 19-6036 permits peace officers to use their arrest powers to intervene in domestic violence situations even though they have not personally observed the commission of a crime. This section must yield to the requirements of the Constitution; for this reason Clarke's judgement of conviction is vacated. **Senator Burgoyne** stated he is not claiming the Clarke decision is erroneous, the only issue presented with this Constitutional amendment is whether the rule should be different.

**Senator Burgoyne**, responding to Senator Hill's question of a misdemeanor versus an offense, said Clarke was specific to a misdemeanor. A reference to crime in the amendment instead of misdemeanor or felony would solve the issue. He listed several alternative approaches.

**Senator Buckner-Webb** referred to cases of misidentification that might be problematic. **Senator Burgoyne** responded that when law officers have power, there is the potential for abuse. He outlined this with examples throughout the country's history. There are standards to ensure accountability.

**Senator Souza** asked for an example of a misdemeanor commonly witnessed by law enforcement and asked if a video recording can be used. **Senator Burgoyne** answered that most commonly, an officer comes upon a scene that is unfolding but only observes part of a crime. Under the Clarke decision it is not clear if the officer has to witness all of the five required elements. The kinds of crimes an officer is most likely to witness would be resisting arrest, obstructing an officer, and

other kinds of crimes that involve the police officer. An officer must have seen the completed crime; anything else is extremely complicated. **Senator Burgoyne**, referring to the video, said the problem may be getting the video entered into evidence.

**MOTION:** **Vice Chairman Harris** moved to send **RS 27355** to print. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**RS 27217** **RELATING TO THE STATE BUDGET** to remove a duplicate section of code.

**David Fulkerson**, Deputy Administrator, Division of Financial Management, stated **RS 27217** eliminates Idaho Code § 67-3524 which was the original statute that governed the equitable allocation of personnel/payroll overhead expenses. This is currently accomplished through Idaho Code § 37-3531, therefore the former code is no longer needed. **RS 27217** also removes code references and makes technical corrections to Idaho Code § 67-1210.

**MOTION:** **Senator Souza** moved to send **RS 27217** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**RS 27218** **RELATING TO STATE GOVERNMENT** to eliminate inactive programs.

**David Fulkerson**, Deputy Administrator, Division of Financial Management, explained that **RS 27218** seeks to repeal Chapter 52, Title 22 and Chapter 3, Title 70, of Idaho Code. Neither of the programs authorized in these codes are active and any duties that may have been allocated to them are covered by flood control districts in Idaho. This is in line with the Red Tape Reduction Act.

**MOTION:** **Senator Anthon** moved to send **RS 27218** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**RS 27274** **RELATING TO THE STATE BUDGET** to change the coding criteria for some items.

**David Fulkerson**, Deputy Administrator, Division of Financial Management, stated **RS 27274** proposes to change Idaho Code § 67-3508, the section of statute that regulates the way expenditure object codes are used; the change is in subsection (c), capital outlay. This legislation changes the criteria for certain items to meet the State Controller's fiscal policy for capital assets with a life of more than two years.

**MOTION:** **Senator Hill** moved to send **RS 27274** to print. **Vice Chairman Harris** seconded the motion. The motion carried by **voice vote**.

**RS 27278** **RELATING TO PUBLIC SCHOOL OFFICERS** to allow more efficiency in depositing the receipt of funds.

**David Fulkerson**, Deputy Administrator, Division of Financial Management, said that **RS 27278** changes Idaho Code § 59-1014 governing the deposit of monies the state receives. Current code requires any amount over \$200 be deposited within 24 hours. The majority of the agencies meet that deadline. However, there are instances where agencies approach the Board of Examiners to apply for an exemption time period; generally remote locations. That was not allowed in current code. **RS 27278** allows the Board of Examiners to make specific exemptions to that rule.

**MOTION:** **Senator Vick** moved to send **RS 27278** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**S 1233** **RELATING TO CAMPAIGN FINANCE** to revise provisions within the Sunshine Law by expanding those who may file a campaign finance report.

**Chad Houck**, Chief Deputy, Office of the Secretary of State, explained that **S 1233** would expand the provisions within the Sunshine Law for those who may file a campaign finance report to ensure that the candidate or political committee always has the ability to file in a timely manner. Currently, Idaho Code § 67-6607 allows only a treasurer for a candidate or political committee to file. The proposed revisions would be expanded to allow the candidate or the political committee to file in addition to the treasurer.

**Mr. Houck** noted that the legislation includes an emergency clause; candidates and political committees are currently subject to mandatory fines for failure to file a required report in a timely manner under statute that took effect on January 1, 2020. Any minimal costs incurred for implementation of this legislation will be covered under the Idaho Secretary of State's annual budget.

**MOTION:** **Senator Souza** moved to send **S 1233** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Senator Stennett** moved to approve the Minutes of January 8, 2020. **Vice Chairman Harris** seconded the motion. The motion carried by **voice vote**.

**Senator Hill** moved to approve the Minutes of January 10, 2020. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 8:43 a.m.

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Senator Lodge  
Chair

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Twyla Melton  
Secretary