

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 24, 2020

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

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman 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 meeting of the Senate State Affairs Committee (Committee) to order at 8:03 a.m.

**Chairwoman Lodge** announced that **S 1333** would be pulled from the agenda at the request of the sponsor.

**RS 27748** **STATING FINDINGS OF THE LEGISLATURE** to support Governor Brad Little and the Idaho Department of Correction in regards to a certain medical condition.

**Senator Bayer**, District 21, presented **RS 27748**, a Concurrent Resolution supporting Governor Brad Little and the Idaho Department of Corrections in their opposition to the State of Idaho providing reassignment surgery to Andre Edmo. She said the Governor objected to the United States Court of Appeals for the Ninth Circuit decision in this case and have declined to reverse its decision. She also said the Ninth Circuit decision is contrary to more than four decades of Supreme Court precedence. **Senator Bayer** quoted Governor Little's news release from February 11, 2020 where his stance was to remain committed to appealing this case to the U.S. Supreme Court and to ensuring that Idaho taxpayers do not pay for a procedure that is not medically necessary.

**MOTION:** **Vice Chairman Harris** moved to send **RS 27748** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**. **Senator Stennett** and **Senator Buckner-Webb** requested they be recorded as voting nay.

**RS 27764** **A JOINT RESOLUTION** to amend the Idaho State Constitution relating to warrantless arrests.

**Senator Burgoyne**, District 16, presented **RS 27764**, and said this is a reprise of **SJR 103**. This resolution reflects the recommended amendments for warrantless misdemeanor arrests. He said this is new because resolutions cannot be amended. He spoke about **SJR 103** and said that last June, in the case of State v. Clarke, the Idaho Supreme Court ruled that warrantless misdemeanor arrests are unconstitutional unless the alleged crime is witnessed by an officer. He said the proposed amendment would restore a long-standing practice by allowing warrantless misdemeanor arrests based upon probable cause when an alleged offense is committed outside the presence of an officer. **Senator Burgoyne** pointed out the specific changes and explained why those changes were made as he referred to a variety of sections and statutes to further clarify (see Attachment 1).

**MOTION:** **Senator Winder** moved to send **RS 27764** to print. **Senator Souza** seconded the motion.

**DISCUSSION**

**Senator Vick** referred to the last sentence added in **RS 27764** and asked if law enforcement officers were able to arrest for any misdemeanor or does this legislation limit their ability to arrest.

**Senator Burgoyne** said the attorneys that advised him said this language states the Legislature has the authority to regulate the power the law enforcement officers have regarding these arrests.

**VOICE VOTE:**

The motion to send **RS 27764** to print carried by **voice vote**.

**S 1308**

**RELATING TO TOBACCO PRODUCTS AND ELECTRONIC CIGARETTES** to bring Idaho Statute into compliance with federal regulation.

**Ross Edmonds**, Administrator, Division of Behavioral Health (Division), Idaho Department of Health and Welfare (IDHW), yielded his time to his colleague, Alicia Handy, to present **S 1308**. **Ms. Handy** said she is the program specialist at the Division and manages the Idaho Tobacco Project. In December of 2019, the federal minimum legal sales age for tobacco products was raised to 21. She said the Division has proposed amendments to the Prevention of Minors Access to Tobacco Act to bring Idaho's minimum age for sale of tobacco products and electronic cigarettes into compliance with federal regulations.

In order for the IDHW to receive the full allocation of the Substance Abuse Prevention and Treatment Block Grant, **Ms. Handy** said they must:

1. Conduct random unannounced inspections to ensure retailers abide by the minimum legal age of sale for tobacco products which are carried out by the Idaho Tobacco Project.
2. Replace Idaho's existing statute and change the legal sales age of 18 years to 21 years of age as the minimum legal age.
3. Align the state law to ensure compliance with the federal law which should resolve the confusion among the retailers.
4. Add the term "young adult" to capture those persons between the ages of 18 and 20 years old who are old enough to sell these products but not old enough to purchase.

**Ms. Handy** said the Division is aware of other changes being proposed to the House Health and Welfare Committee for this chapter of rule. The changes being proposed are specifically related to the federal increase in minimum age for sale of tobacco products and electronic cigarettes and have other implications for compliance. She stated this legislation is intended to be cost-neutral, there is no anticipated fiscal impact to the General Fund or any other funds.

**Senator Anthon** asked how much Idaho would lose if they lost the Substance Abuse Prevention and Treatment Block Grant. **Ms. Handy** responded that the state could lose up to 10 percent of the total block allocation of approximately \$8.5 million, or up to \$850,000.

**MOTION:**

**Senator Stennett** moved to send **S 1308** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion.

**DISCUSSION:**

**Senator Anthon** said he will be voting against the motion. He agreed that Idaho needs to tighten up on the sale of electronic cigarettes and access to youth, and they need to deal with some of the tax issues that have been lingering. He stated his position that if a person could buy a car, get married, have children, join the military, and fight for this country, they should be able to buy a cigarette.

**ROLL CALL  
VOTE:**

**Chairwoman Lodge** called for a roll call vote. **Chairwoman Lodge** and **Senators Hill, Winder, Stennett,** and **Buckner-Webb** voted aye. **Vice Chairman Harris** and **Senators Vick, Anthon,** and **Souza** voted nay. The motion carried.

**DISCUSSION:**

**Senator Winder** said he has struggled with this age issue much like his colleagues on this Committee. He shared a story about his sister. He said consistency in the law is a step in the right direction.

**Chairwoman Lodge** shared her experiences with her friends and family. She said if this legislation helps to hold off smoking in younger people, she is all for it.

**S 1344**

**RELATING TO STATE BUDGETS** to revise requirements for reports by state agencies.

**Vice Chairman Harris** presented **S 1344** and said this bill is to amend Idaho Code § 67-1917. He explained in detail how agencies can request additional funds to match federal grants. He stated what changes will be required, and said state agencies need to report when federal funds are set to expire and include details on state matching requirements. Agencies are required to include in their budget submissions a plan to reduce or eliminate any service provided through federal grants when federal funding is reduced by 50 percent or more from a previous year's funding.

**Vice Chairman Harris** said this is to add transparency to the budget process. Jared Tatro, Legislative Services Office, Budget & Policy Analysis Division, was present to answer any technical questions.

**MOTION:**

**Senator Souza** moved to send **S 1344** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**PASSED THE  
GAVEL:**

Chairwoman Lodge passed the gavel to Vice Chairman Harris.

**S 1350**

**RELATING TO BALLOT INITIATIVES** to increase the information available to voters about statewide citizen initiatives.

**Chairwoman Lodge** presented **S 1350** and said it proposes to provide information to voters about statewide citizen initiatives by adding a fiscal impact statement to all ballot initiatives that includes a non-binding funding source. She yielded to **Representative Wendy Horman**, District 12, who detailed the initiative process with a funding source in the flowchart she provided (see Attachment 2). She further explained how a fiscal impact statement is prepared and provided an article from the National Conference of State Legislatures (NCSL) (see Attachment 3).

**DISCUSSION:**

The Committee had multiple questions that touched on the following:

- how other states deal with gathering fiscal statements during the initiative process,
- how to clarify the "non-binding" funding source,
- what is the Legislature's part in this process,
- what happens if the Department of Financial Management (DFM) or the Secretary of State (SOS) do not agree with the initiative,
- how does location affect the initiative process in terms of access to resources, especially to those outside the Treasure Valley, and
- how to clarify the new and amended changes to **S 1350**.

**Representative Horman** referred to the handout from the NCSL. She explained their own process and why they chose to use/mirror the approach taken by the State of Washington. They decided on the "non-binding" funding source because of extenuating circumstances, and the difficulty in budgeting and trying to capture funds in order to do no harm to other agencies trying to make this work for the initiative. She said it was also important that the Legislature have the flexibility to consider the funding source but not be bound by it. **Representative Horman** said that if the DFM or the SOS do not agree on the initiative, the petitioner is free to start over and could propose something different. She said you do not need to be local to complete the initiative process; it can be done remotely. She discussed the sections related to the amendments.

- MOTION:** **Senator Souza** moved to send **S 1350** to the floor with a **do pass** recommendation. **Senator Buckner-Webb** seconded the motion.
- DISCUSSION:** **Senator Winder** commented on the bill and said that it spells out the process; it is very fair, doesn't require undue obstacles or interference, and the petitioner will get all the help they need. He said it is very clear and helpful.
- VOICE VOTE:** The motion to send **S 1350** carried by **voice vote**. **Senator Stennett** requested she be recorded as voting nay.
- ADJOURNED:** There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 9:00 a.m.

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Senator Lodge, Chair

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Twyla Melton, Secretary

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Denise B. McNeil  
Assistant to the Assistant Majority  
Leader