

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 13, 2020

TIME: 7:45 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, Stennett, and Buckner-Webb (Rohn)

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 7:45 a.m.

RS 27934 **RELATING TO PROPERTY TAXES** to re-establish the index on the Idaho homestead exemption and increase the exemption.

Senator Vick stated that **RS 27934** raises the existing homestead exemption to \$120,000 and reinstates the indexing.

MOTION: **Senator Winder** moved to send **RS 27934** to print. **Senator Hill** seconded the motion. The motion carried by **voice vote**.

RS 27715 **RELATING TO PROPERTY TAX RELIEF** to revise provisions regarding income limitations and tax reduction amounts for the Property Tax Relief Program.

Senator Anthon said this tax relief program is for people 65 and older, widows, the blind, the fatherless, the motherless, former prisoners of war, and veterans and others who are disabled. This bill makes changes in the program so that those who need it the most are eligible.

MOTION: **Vice Chairman Harris** moved to send **RS 27715** to print. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENT: **Vice Chairman Harris** moved to send the Gubernatorial appointment of Patricia Perkins to the Treasurer's Investment Advisory Board to the floor with the recommendation that she be confirmed by the Senate. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Winder** moved to send the Gubernatorial appointment of Dale McOmber to the Idaho State Building 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**.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Vick** moved to send the Gubernatorial appointment of Mark Ciavarella to the Idaho State Building Authority to the floor with the recommendation that he be confirmed by the Senate. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **The Gubernatorial Appointment** of Anthony Vahsholtz to the Idaho State Building Authority (ISBA).

Anthony Vahsholtz, Vice President and Commercial Lending Area Manager, Bank of Idaho, stated he has been in banking since 1998 and, with

his experience in real estate and finance, could be an asset to the ISBA. This is a way to serve the State in some capacity.

Chairwoman Lodge thanked Mr. Vahsholtz for coming before the Committee and explained that voting would be sometime the following week.

S 1386

RELATING TO daylight saving time for areas of Idaho on Mountain time to remain on that time zone throughout the year under a specified condition.

Senator Patrick, District 25, explained that **S 1386** is related to Southern Idaho and daylight saving time in the Mountain time zone. Utah and Wyoming have both passed legislation to stay on daylight saving time in the Mountain time zone year-round and this bill will allow Idaho to do the same.

MOTION:

Senator Vick moved to send **S 1386** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

H 575

RELATED TO LIQUOR STORES to establish a framework for tasting at state-owned and operated liquor stores.

Senator Souza introduced Kate Haas to present the bill.

Kate Haas, Kestral West, said she was speaking on behalf of the Distilled Spirits Council. **Ms. Haas** explained that **H 575** is a narrowly drafted bill allowing tasting of liquor in a State liquor store. She noted it supports the constitutional mandate for temperance then outlined primary aspects of the bill: the sample size would be one quarter ounce, that is one and one-half teaspoon; the supplier would be responsible for all aspects of setting up, monitoring, handing out the product, and anything related to this activity; employees of the store would not participate in any way; the tasting would occur in a roped off area; and the supplier retains all liability. **Ms. Haas** expounded on other requirements: the consumer must be 21 years of age or older; contract stores are precluded from this practice; samplings would only be allowed in State run stores; the Idaho State Liquor Division (Division) cannot promote these tastings; and upon approval of a tasting, the Alcohol Beverage Control (ABC) must be notified.

Ms. Haas stated that the Idaho distillers view this as a business issue that could be very helpful to them. This bill allows sampling in a safe and controlled environment and strikes a balance between helping these businesses while recognizing the importance of temperance.

DISCUSSION:

Chairwoman Lodge asked for a reminder on how these tastings would be approved. **Ms. Haas** said if a supplier wanted to have a tasting, they would have to get the time, place, and details approved by the Division so there would be control as to number and locations of those tastings.

TESTIMONY:

Chris Kelch, the Owner/Operator of Northstar Spirits, said he is a small company that brokers for a majority of Idaho's small distilleries, as well as products from outside the state. This is a way to give those in the craft industry the opportunity to get products out to the public. They are aware of the rules and guidelines set by the ABC and the Division and agrees these regulations will provide a safe way to sample a product.

MOTION:

Senator Anthon moved to send **H 575** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Harris** requested to be recorded as voting nay.

H 525

RELATING TO PUBLIC MONEYS to prohibit the transfer/expenditure of public moneys to organizations who are providers of abortion services with certain federal exceptions.

Senator Lent, District 33, deferred to Brandon Durst, former State Senator. **Mr. Durst** stated that the bill is designed to ensure taxpayer dollars are not going to the abortion industry; that is prohibited by federal law. However, there is the fungibility of those dollars such as paying for facilities, employees, and other business expenses. He noted that he has some amendments and went through the bill explaining where those would apply and what sections of the bill would be eliminated: Section 3 would be stricken in its entirety, and Section 2, (a) and (c) would be stricken, (b) would remain. These changes would also comply with the Attorney General's and the Idaho Hospital Association's concerns. A new Section 4 would be added related to school districts. There is a concern that some school districts are partnering with abortion providers for the provision of sexual education. Also, the phrase appearing in every section, "notwithstanding any other provision of federal law to the contrary" would be removed.

DISCUSSION:

Senator Hill asked if the amendments comply with the amendments suggested by the Attorney General (AG) and has the AG reviewed the addition related to school districts to see if all changes are defensible. **Mr. Durst** replied those amendments have not been reviewed by the AG. All amendments will be reviewed by the AG and that report will be available if this goes to the 14th Order of Business.

Senator Stennett stated that the suggested changes seem to be a complete change from the original bill and it will still need more work; all that is expected to be accomplished in the 14th Order. Maybe it should all be redone. **Mr. Durst** responded that the only changes were those found to be problematic by the AG's office, the hospital associations, and other groups that have a vested interest in the delivery of healthcare. **Senator Stennett** asked if there would be confirmation on these amendments prior to going to the 14th Order. **Mr. Durst** said that they could get an analysis from the AG's office quickly.

Representative Brian Zollinger, District 33, said they have made changes to alleviate the concerns from the AG and those related to Title 19 laws.

Representative Zollinger did not anticipate any conflicts with the amendments and they will get another AG's opinion prior to going to the 14th Order.

TESTIMONY:

Toni Lawson, Vice President, Idaho Hospital Association, representing 46 community hospitals across the state, said she was not aware of the proposed amendments. There is still one concern, the bill only addresses State funding issues; Idaho has county and district hospitals that receive funds from counties and districts as well as from the State Catastrophic Fund and County Indigent Programs. **Ms. Lawson** said she isn't sure the changes will address county and district hospitals. She stated they support sending the bill to the amending order and would like the opportunity to work on this bill.

Misti Tolman, Idaho State Director for Planned Parenthood Northwest and Hawaii, stood in opposition to **H 525**. **Ms. Tolman** stated that Idaho already prohibits public funding for abortion as required for the Hyde Amendment (1976). This bill would be a direct attack on Planned Parenthood and have a devastating impact on patients who depend on them for high quality preventive care.

Jackie Wakefield, on behalf of Idaho Right to Life, spoke in support of the amendments for **H 525**. **Ms. Wakefield** provided some statistics regarding abortions in Idaho and specific locations. **H 525** would prohibit public funds from going to any individual or organization that provides abortions. She stated abortion is not healthcare.

Natalie Perry, representing herself, spoke in opposition to this bill and stated

that Planned Parenthood provided her with contraceptive medication to control a medical problem during times when her parents' insurance no longer covered her. She turned to Planned Parenthood for medication that was free. Organizations such as this fill a void for those populations that do not have insurance coverage and cannot afford care.

Donna Harwood, representing Lions Pride stood in opposition to this bill.

Blaine Gonzatti, Director, Family Policy Alliance, supported the amendments to **H 525**, especially the new section that bars school district funds going to the providers of abortion.

Elizabeth Finley, representing herself, spoke in opposition to this bill. She pointed out two reasons this bill shouldn't pass: 1.) women who seek to terminate a pregnancy but do not have the means will seek an unsafe alternative; and 2.) women who are forced into being a parent may not be financially or emotionally prepared to be a mother.

Kathy Griesmeyer, Policy Director, ACLU of Idaho, stated their opposition to **H 525**. **Ms. Griesmeyer** reiterated the reasons that Planned Parenthood should not be defunded. She discussed how this could affect women's time in the paid workforce. **Ms. Griesmeyer** pointed out that the restrictions in this bill have a disproportionate impact on low income women, women of color, immigrant women, and young women. She said nearly 52 percent of all patient visits to Planned Parenthood were those patients enrolled in Medicaid. Courts across the country have found that attempts to penalize abortion providers from receiving public funds for non abortion related care is unconstitutional for healthcare providers engaging in their Fourteenth Amendment protected activities. A Florida law was struck down in August, 2016 that concluded the defunding provision does not survive the Unconstitutional Court Conditions Doctrine.

DISCUSSION:

Senator Stennett confirmed that Ms. Griesmeyer had not seen the amendments. She said even if these changes are made, this would be contested and more taxpayer dollars would be wasted in court. She asked if taking away the ability for a provider of abortions to give any kind of health care would be contested. **Ms. Griesmeyer** said, from a constitutional standpoint as it relates to the unconstitutional conditions, penalizing an abortion provider by restricting their access to public funds for non abortion related activities is what the court has deemed essential in striking down the law in Florida and Utah. There have been a number of cases that could be reasonably applied to this law if it were to be moved forward.

TESTIMONY:

David Ripley, Executive Director, Idaho Chooses Life, stated they support this legislation with the amendments. It is a powerful move to restrict the access of abortion providers to local government funding and the narrowing of the scope of this bill will also solve a number of legal questions.

Jennifer Martinez, testified in opposition to the bill on behalf of the Idaho Coalition Against Sexual and Domestic Violence (Coalition). The Coalition has a membership that consists of Idaho's 24 community and tribal based domestic and sexual violence programs with an additional 50 allied organizations located throughout the state. Idaho is a vast and rural state where healthcare can be limited. By removing crucial funding, Planned Parenthood could not provide vital services that anyone can access and they are often the only reliable, trusted services available.

DISCUSSION:

Senator Anthon asked if Ms. Martinez's testimony was a concern that victims of sexual violence would have a more restricted access to care or is it opposition to restrictions on abortion in Idaho. **Ms. Martinez** responded it is both, and explained that sexual assault victims should be able to access healthcare

wherever they chose. The Coalition also has a partnership with Planned Parenthood and she explained the context of that partnership.

- TESTIMONY:** **Chairwoman Lodge** stated she had just received a late sign up sheet for Astrid Wilde and Denise Cavoizzi to testify; both were in opposition to the bill.
- Christian Welp**, representing the Catholic Churches in Idaho, stated they support the amendments put forward.
- DISCUSSION:** **Senator Lent** yielded to **Representative Zollinger** who stated that the amendments have not been seen by all involved but they would get them distributed which will solve many of the concerns. This bill is not dealing with Title 19 funds or Medicaid funding. Concerning the jurisprudence, **Representative Zollinger** explained that the most recent court decision was from March 13th, 2019, *Planned Parenthood of Greater Ohio vs Hodges*, and the point of that case paved the way for other states to prevent public monies to be used to fund abortions through the fungibility of money. The U.S. Ninth District Court of Appeals, on February 24, 2020, upheld the Trump Administration rules to bar health care providers from referring patients for abortions. **Representative Zollinger** said the surveys he has seen show that 60 percent support this. Even if they are pro choice and support abortions, they are against public funding for abortions. In his opinion, with the amendments, the bill is on solid ground. He also said they would look at the county hospital situation.
- MOTION:** **Senator Anthon** moved to send **H 525** to the 14th Order of Business for possible amendment. **Vice Chairman Harris** seconded the motion.
- SUBSTITUTE MOTION:** **Senator Rohn** moved to hold **H 525** in Committee. **Senator Stennett** seconded the motion. The motion failed by **voice vote**. **Senators Stennett** and **Rohn** requested to be recorded as voting aye.
- VOICE VOTE :** The original motion carried by **voice vote**. **Senators Stennett** and **Rohn** requested to be recorded as voting nay.
- SJR 104** **A JOINT RESOLUTION** proposing an amendment to the Idaho Constitution relating to warrantless arrests in certain cases.
- Senator Burgoyne**, District 16, distributed the following handouts related to this bill (see attachments 1-5):
1. *State of Idaho vs Peter O'Donald Clarke* (Clarke) decision from which this constitutional amendment arises.
 2. The Attorney General's opinion that indicates that this constitutional amendment would likely pass under federal constitutional law.
 3. A list of State statutes authorizing warrantless misdemeanor arrests which Clarke invalidates.
 4. Two statues, Title 18 and Title 19 authorizing warrantless arrests.
 5. A statement of support from the Superintendent of the Moscow School District #281.
- Senator Burgoyne** yielded his time to co-sponsor Representative Goesling.
- Representative Bill Goesling**, District 5, stated that **SJR 104** is important because it deals with Idaho's most important resource, its children. He noted the Committee would hear from school safety stakeholders as to why this bill is an important step in ensuring that schools are physically safe. **Representative Goesling** related an occurrence that happened in Moscow on March 29, 2018 when there was a physical threat at one of their schools and the aftermath

of that experience. Legislation that would have been helpful was ruled unconstitutional by the Idaho Supreme Court.

TESTIMONY: **Dan Hall**, Chief of Police, Jerome Police Department, representing the Idaho Chiefs of Police Association (ICOPA), stated their support of **SJR 104**. He related examples from ICOPA members from across the state about how the Clarke decision has impacted law enforcement and puts the citizens they protect in difficult, and sometimes dangerous situations. There has been no clear direction in taking a misdemeanor suspect into custody in any situation that may be detrimental to public safety; there is confusion and inconsistency within the law enforcement community. There are problems accessing judges in both large and small communities; in larger areas, judges are too busy and in smaller areas there may be no judges at all. Judges also may not have access to computers and/or WiFi to review paperwork. Getting a warrant is personnel intensive. **Chief Hall** explained the consequences of those situations. He asked that, in the interest of public safety, the Committee support this constitutional amendment.

DISCUSSION: **Senator Vick** asked if passing this amendment would change any practices that were being done prior to the court decision. **Chief Hall** stated his belief that this amendment would restore the practices in place before the Clarke decision. He noted that it also gives the Legislature the authority to determine which of the offenses could lead to arrest based on probable cause.

TESTIMONY: **Kieran Donahue**, Sheriff, Canyon County, emphasized that this bill puts law enforcement back to pre Clarke decision practices. The current situation makes it almost impossible in rural areas to keep people safe while trying to obtain a warrant; at times, it takes three or more hours. About 50 percent of the cases are domestic violence and the Clarke decision affected those in a very negative way, especially in rural areas.

DISCUSSION: **Senator Vick** inquired about the percentage of cases of domestic violence resulting in an arrest. **Sheriff Donahue** answered that about one-half are arrested depending on potential volatility or lethality.

Senator Anthon asked if law enforcement would have the same authority as they had prior to Clarke if the constitutional amendment were to pass. **Sheriff Donahue** stated his belief that it would not give them any more authority nor would it be more enforced. The officers use a great amount of discretion in the streets.

Senator Stennett asked for an example of a time when an officer would not be involved or right on the scene. **Sheriff Donahue** said it was very rare when they would be present at an incident. They are typically called and then dispatched to the scene. In rural areas, it could be some time before an officer would get to the scene.

Senator Anthon asked why this legislation is so important in the case of a DUI. **Sheriff Donahue** deferred that question to an officer on the street.

TESTIMONY: **Chad Bingham**, Patrol Sergeant, Canyon County Sheriff's office, said he was basing his testimony on the dangers the Clarke decision poses for the public, victims of domestic violence, DUI cases, and officers. He went through the scenario of a domestic violence case and what would happen prior to Clarke and what happens now after Clarke for insight on the challenges they now face from a "boots on the ground" perspective. The long process now required to put a misdemeanor suspect into custody creates a shortage of officers and creates a risk to public safety and a risk to the officers who are already performing a difficult and dangerous service. **Sergeant Bingham** said a valuable tool has been lost. Only the Legislative branch has the ability to put it back.

Dr. Lisa Bostaph, Professor of Criminal Justice, Boise State University, noted that she has been pursuing a research project over the last three months to study the effects of the Clarke decision on police response to domestic violence in Idaho. **Dr. Bostaph** reported that arrests in misdemeanor domestic violence cases has 30 years of valid research that demonstrates a significant reduction in future domestic violence cases if arrests are made at the misdemeanor level. It is one of the reasons why most jurisdictions across the U.S., excepting Idaho, have the ability to make a misdemeanor warrantless arrest in domestic violence situations. **Dr. Bostaph** added one more concern, the ability to obtain a civil protection order for victims of domestic violence. Violations of those orders are misdemeanors, meaning the officer cannot arrest without having that violation occur in their presence, rendering those orders moot for victims of domestic violence.

DISCUSSION: **Senator Anthon** noted there are many jurisdictions in the U.S. following what Idaho has today. He asked what the data shows in those jurisdictions. **Dr. Bostaph** responded that they did a sweep of all 50 states to determine where officers obtain their warrantless arrest abilities; every jurisdiction in the country with that ability has it through statute. That ability may be limited to certain crimes, but they all have warrantless arrest abilities.

TESTIMONY: **Janet Bennetts**, Ada County Prosecuting Attorney, spoke on behalf of her office and the Idaho Prosecuting Attorneys Association in support of **SJR 104**. **Ms. Bennetts** limited her testimony to two items.

1. Clarke struck down warrantless arrests for assault, battery, stalking, violation of a no contact order which is a criminal act, violation of a protection order, and threatening violence on school grounds. Although Clarke did not address DUI cases, it struck down warrantless arrest for DUI and that includes other items such as negligent homicide or a misdemeanor crash case resulting in death. It is important to note that in Clarke, the Idaho Supreme Court recognized the consequences of this decision and how it would impact Idaho. She quoted that opinion (see attachment 1, page 9, last paragraph). **Ms. Bennetts** agreed with Dr. Bostaph that without arrest intervention on a misdemeanor, violence will escalate.
2. The other impact is that court opinions across the state are varied in how they are handling the Clarke decision. There are different opinions about whether or not it applies to a DUI; and there is case law that says Clark applies to a DUI, there is a case that says it doesn't. There have been DUI cases that resulted in the court holding that the evidence was suppressed. Clarke is having an impact in the DUI arena.

Brian Keen, Sergeant, Ada County Sheriff's Office, discussed the specifics of a DUI arrest with the timetable to get a warrant to make that arrest, and the number of deputies involved.

Nolan Zorn, Deputy, Ada County Sheriffs Office and member of a DUI instructor team, stated he has seen the process prior to the Clarke decision and now they are on the other side of Clarke. **Mr. Zorn** provided a scenario that explained what the changes were.

DISCUSSION: **Senator Vick** asked about the percentage of DUI cases where an arrest is difficult. **Mr. Zorn** was unable to answer that question but will get that data to Senator Vick.

TESTIMONY: **Jamie Sullivan**, Boise City Attorney, representing Boise City and the City of Meridian Police Force and City Prosecution Team, provided some statistics showing arrests made by the Boise Police Department pre Clarke from

October 1, 2018 to June, 2019 included 272 domestic violence related charges, and 42 percent of those ended in arrest. Post Clarke, June 15, 2019 to approximately February 11, 2020, there were 262 domestic violence related incidents, 12 percent of which ended in arrests. With respect to Ms. Bennetts' comments about inconsistency and interpretation, there is significant disparity of how the Clarke decision has been applied. The courts have been inconsistent about whether Clark applies to Idaho Code § 49-1405 which allows for arrest for traffic offenses like DUI. Some cases held that Clarke applied, and some that it does not. The Clarke decision has hindered prosecutors and law enforcement.

DISCUSSION: **Senator Anthon** asked if common law would apply to these arrest scenarios or is that something that a court would even consider. **Ms. Sullivan** responded that Clarke says the statute is unconstitutional so the only way to address this is through the Idaho Constitution.

Senator Burgoyne commented that the Clarke decision leaves a lot of questions unanswered and it will take time for magistrates and district judges around the state to sort this out. He suggests that the constitutional amendment does bring clarity to do what we did pre Clarke. This constitutional amendment says that the Legislature can regulate the power of warrantless misdemeanor arrests for probable cause and allows the Legislature's role to limit how law enforcement does misdemeanor arrests in Idaho.

MOTION: **Senator Stennett** moved to send **SJR 104** to the floor with a **do pass** recommendation. **Senator Hill** seconded the motion.

DISCUSSION: **Senator Anthon** stated that something has to happen on this issue. Experience has shown him how difficult it is in domestic violence cases and it is a real challenge for law enforcement. He has proceeded with an abundance of caution because this is about constitutional rights. This has to be fully vetted and carefully thought about before adjusting Fourth Amendment rights. Also, this is the Legislature deciding whether to advance the question to the electors of the State of Idaho and not the Legislature making the decision; that is an important distinction.

VOICE VOTE: The motion carried by **voice vote**.

Senator Anthon reserved the option to possibly oppose this bill on the floor.

H 516 **RELATED TO CONCEALED WEAPONS** to revise a certain exception and to remove surplus verbiage.

Senator Rice, District 10, stated that **H 516** is a small change in wording on page 2, line 19 of the bill changing from "resident of Idaho" to "citizen of the United States" when discussing concealed carry in the State as stated in Idaho Code § 18-3301(4)(f)(ii). **Senator Rice** explained the change is needed to comply with the privileges and immunities clause of the U.S. Constitution.

DISCUSSION: **Senator Stennett** asked about how this change would make any difference and is there any reciprocity. **Senator Rice** answered that it meant someone who lived outside the state would have to meet the same standard as a citizen of the State of Idaho. Idaho has a reciprocity agreement with some states.

Senator Vick asked if the State could be subject to lawsuit if we don't change Idaho Statute to address the privileges and immunities clause in the U.S. Constitution. **Senator Rice** answered potentially that could happen, but this would eliminate that possibility.

Senator Hill inquired if this applies only to the regular permit and not to the enhanced concealed carry permit. **Senator Rice** responded that this does not

treat permitless carry the same as the two concealed carry permits that require background checks.

Chairwoman Lodge asked those signed up to testify in opposition to stand: Nicole Brown, Marsha Bravo, and Michael Allen stood. Next, those in support stood: Lindsey Zea, Russell Fair, and Greg Pruett.

MOTION:

Senator Souza moved to send **H 516** to the floor with a **do pass** recommendation. **Vice Chairman Harris** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Rohn** requested to be recorded as voting nay.

Chairwoman Lodge recognized Representative Christy Zito as the co-sponsor for **H 516**.

S 1384

CONTINUED - RELATING TO FIREARMS to allow school district employees with an enhanced concealed weapon license and under specified circumstances, to carry a concealed weapon in a school.

Chairwoman Lodge reminded the Committee that they had heard the opposition on Wednesday and would now be hearing those in favor of the bill, plus law enforcement.

TESTIMONY:

Dave Taylor, speaking on behalf of himself and the Idaho State Rifle and Pistol Association, provided some examples of where concealed carry occurs in places such as movie theatres, libraries, and Walmart where no one is aware because they don't see the guns.

Greg Hjelm, Nampa, addressed some of the concerns about accuracy and what could happen in the schools. He stated he had attended a Sheriff's long pistol qualification course recently where accuracy was a priority. At that time he observed several church group security teams taking intense training courses; there are courses available.

DISCUSSION:

Senator Souza asked if the type of training Mr. Hjelm observed would be appropriate to include as part of this legislation and did it address an active shooter. **Mr. Hjelm** encouraged the use of those types of training.

TESTIMONY:

Charles Nielson spoke about parental rights and supported the bill.

Greg Pruett spoke on behalf of Linda Weeks, a teacher from Boise School District. She said she saw high school students distributing flyers to other students to encourage their parents to support this bill. Children need the assurance they are safe.

DISCUSSION:

Senator Souza asked if Mr. Pruett would encourage adding language to the bill requiring active shooter training and annual training updates. **Mr. Pruett** responded that training should continue but he didn't think it needed to be added to the bill.

TESTIMONY:

Russell Fair, an educator and permit holder, stated his support of this bill. **Mr. Fair** talked about some of the things that were taught in an enhanced class that would allow educators to take immediate action. He noted, as was heard from law enforcement, it could take 30 minutes for them to respond.

Josiah Silva said he spent 15 years as an educator in Central California, and 6 of those as an assistant principal where he coordinated safety training to prepare everyone for a live shooter on campus. The types of things that were taught for protection were locking oneself in classrooms, barricading doors, and hiding. If someone entered the classroom, protection was by throwing a fire extinguisher, a stapler, or maybe a chair. They would be facing a merciless individual. He strongly urged support of this bill.

Heidi Smith-Tukatori said she is a pastor and mother and urges passage of this bill. She has researched school shootings over the past decade and has seen an escalation since the passage of the 1990 Gun Free School Zone Act. She quoted some statistics for killings at four of the country's most well known school shootings.

Bailey Nielson, representing herself, asked the Committee how they would propose to protect her at school if her teacher can't.

DISCUSSION: **Senator Stennett** said the school districts have the ability to do what they think is best in each of their jurisdictions. **Chairwoman Lodge** also commented on the efforts put forth by the school districts. **Senator Anthon** stated that the State has a compelling interest to protect as well as educate students.

TESTIMONY: **Jeff Lavey**, City of Meridian Chief of Police, said he is representing the Idaho Chiefs of Police Association (ICOPA). **Chief Lavey** stated that the ICOPA is no longer neutral and has problems with the bill regarding training. It takes strenuous training to protect a school in case of an active shooter, one must be prepared to act intuitively. Law enforcement trains over and over again; training for an enhanced weapon permit is not enough.

DISCUSSION: **Senator Hill** asked how the ICOPA came to this decision and who makes the decision. **Chief Lavey** said they have a cadre of legislative chiefs on the committee that have been given the authority to make decisions based upon the input they receive from the membership.

Senator Vick referred to the duty to respond when an officer was let go because the court said he didn't respond or have a duty to respond; are there consequences if they don't. **Chief Lavey** acknowledged that by statute, there is no duty for an officer to respond. However, there are consequences if the officer does not respond. If a citizen fails to act, there are no consequences. If an officer does not respond they may be blacklisted, lose their job, or be unemployable for any law enforcement or security job anywhere.

Senator Stennett requested information about how law enforcement works with the school districts for training and to ensure proper protocols are in place. **Chief Lavey** noted they have a good relationship with West Ada School District. Some school districts have programs in place but that is not the case with all districts. The Legislature has given the board of trustees the right to make the choice of what is best for their communities. He described some of the plans and mandates that are in place. It should be the board of trustees' decision, not the Legislature's.

Senator Winder asked about having a plan that law enforcement could support that would allow schools to have armed teachers with proper training and protocols. **Chief Lavey** outlined the kind of issues that would need to be addressed and emphasized that this could not be a rushed process and all stakeholders would have to be involved. He agreed with the idea of having guns in the schools for protection, but it had to be the right people.

TESTIMONY: **Vaughn Killeen**, Executive Director, Idaho Sheriff's Association (ISA), stated the ISA has taken a position on this bill based on a two-thirds vote of the voting sheriffs; ISA decided to oppose **S 1384** for numerous reasons. **Mr. Killeen** focused his comments on training – the types of training, the frequency of training, working with the districts, and developing uniformity throughout the state recognizing the differences between each school district. He described what is required in this bill versus the training that should be required. This bill also removes the ability for supervisory control that can only be accomplished at the district level.

DISCUSSION: **Vice Chairman Harris** suggested that someone obtaining an enhanced permit would be familiar with firearms and know how to use them. He asked about the possibility of having law enforcement agencies work with these people to provide ongoing training, including active shooter training, to alleviate some of the concerns. **Mr. Killeen** responded that would be the best way to address the training issue.

Senator Stennett inquired if teachers with limited training and carrying only one gun in an active shooter situation would succeed in such a situation. **Mr. Killeen** noted that sometimes it may be successful and in others it would be tragic. Also, in his opinion, although the bill requires the gun to be on the person at all times, it won't be, and that creates an opportunity for an accident.

Senator Lakey stated his respect for the opinions and motives on both sides; all agreed that safety for the children is the most important, only the methodology is different. **Senator Lakey** corrected three inaccurate statements. 1.) Confidentiality about who has a concealed license. It was stated that school districts could not keep this information confidential. Public Records law under Idaho Code Title 74, Chapter 1 provides a list of exceptions to public records as well as a general exception under Idaho Code § 74-1041. 2.) A school board cannot go into an executive session and discuss records that are exempt from disclosure, see Idaho Code § 74-2061(d). 3.) An incorrect statement was made that the immunity provisions in this bill allow a teacher to do anything they want with a firearm. **S 1384** requires lawful use and all firearms laws are applicable.

Senator Lakey stated he supports local control but the problem is inaction. Idaho has approximately 120 school districts, there may be 3-5 that have adopted a policy to allow a teacher to carry enhanced. He explained Utah's ability to carry a concealed weapon on school property and its training programs including one called Teacher's Academy. **Senator Lakey** again stated his respect for the men and women in law enforcement and the heroic things they do every day. Even though they serve at their best, it takes time to get to a scene. Teachers deserve the opportunity to defend their students and themselves.

MOTION: **Senator Souza** moved to send **S 1384** to the 14th Order of Business for possible amendment. The motion failed for lack of a second.

MOTION: **Senator Anthon** moved to send **S 1384** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion.

Senator Stennett said she cannot support this bill and listed all the reasons why: lack of intensive and ongoing training; lack of immunity to property owners; no definition of concealed; no discretion for school boards to take action even though they have the statutory authority to do so; school boards' liability for people's safety and for insurance; and other staff people and parents that are unaware of who is carrying.

Senator Rohn stated he is a school board member of the Boise School District (Boise) and as an elected official, takes the huge responsibility of safety seriously. The procedures and policies in Boise are not the same as they would be in other parts of the state. He said he would ask for support of local control by voting no on this bill.

Chairwoman Lodge said she had been a school teacher for 35 years in Canyon County. She recalled some of her experiences during that time and how important it is to have safety in the schools. She acknowledged all those who came to testify on both sides of the issue keeping in mind the main concern was the safety of children. **Chairwoman Lodge** stated that her biggest concern was training and that it needed to be extensive and ongoing. With that she stated she will be voting against this bill.

**ROLL CALL
VOTE:**

Chairwoman Lodge called for a roll call vote. **Vice Chairman Harris** and **Senators Winder, Vick,** and **Anthon** voted aye. **Senators Hill, Souza, Stennett, Rohn,** and **Chairman Lodge** voted nay.

ADJOURNED:

There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 11:02 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary