

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, January 13, 2021

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Guthrie, Senators Winder, Anthon, Harris, Lee, Heider, Stennett, and Burgoyne

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 8:14 a.m. and introduced the 2021 Committee members.

PAGE INTRODUCTION: **Chairwoman Lodge** introduced Jaylee Harris, the page for the Committee. **Ms. Harris** stated she attends Burley High School, is interested in politics, and is currently the student body vice president. She aspires to study international policy in college.

RS 28186 **Relating to Emergency Powers of the Governor.** **Senator Winder** explained the process and the following issues that would need to be addressed when drafting any legislation:

1. Declare that all Idahoans who work and pay taxes be deemed essential in any declared emergency.
2. Amend the Idaho Constitution to provide that, in limited circumstances, the Idaho Legislature may call itself back into session while remaining a part-time citizen legislature.
3. Set a limitation on the length of any statewide emergency declaration.
4. Set a limitation on the emergency powers and spending authority of Idaho's executive branch without the approval of the Legislature.
5. Prohibit quarantining healthy people.
6. End any orders prohibiting Idahoans from attending places of worship.
7. Rescind existing emergency declarations.
8. Review authority related to public health districts' and local governments' subdivisions.

Senator Winder explained **RS 28186** addresses Idaho Code § 46-1002 (2) and specifically how "disaster" is defined. A disaster that does not result from hostile military or paramilitary action or an act of terrorism. He attempted to separate devastating man-made disasters from natural disasters. He referenced line 34 noting the replacement of the word "during" with "arising out of" in Idaho Code § 46-2002 (8). This change would allow for continued funding beyond the end of the State of Emergency termination.

MOTION: **Senator Anthon** moved to send **RS 28186** to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

RS 28187 **Relating to Emergency Powers of the Governor.** **Senator Winder** cited Idaho Code § 46-1003 to correct line 40 "arising out of declared state of disaster." He emphasized that a draft bill of Idaho Code § 46-1005(a) would be prepared. It would insert the same language as it relates to disaster relief in different sections of code.

MOTION: **Senator Anthon** moved to send **RS 28187** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

RS 28189 **Relating to Emergency Powers of the Governor.** **Senator Winder** cited Idaho Code § 46-601. He explained why the wording on page 1, line 15, of **RS 28189** was changed from "state of extreme emergency" to "state of extreme peril." He described examples of human-caused conditions such as riots, insurrections, breaches of peace, explosions, or incidents unable to be controlled at the local level. He referenced line 27, page 1, as defining what an enemy attack typifies. He proceeded to line 35, page 1, regarding limits to the authority of the Governor, specifically regarding proclamations or issuances of enforcement of written rules necessary to support the National Guard or organized militias.

Senator Winder briefly summarized lines 42 through line 48, page 2, emphasizing that the Governor's order must not restrict the rights of Idahoans to work, provide for their families, or otherwise contribute to the economy of Idaho. During a state of extreme peril, the Governor cannot suspend Idaho Code. Only the Idaho Legislature elected by the people can make laws or suspend laws. He concluded by explaining the severability clause and the emergency clause. This legislation would become effective and enforced as soon as passed. He reaffirmed the urgency to print **RS 28189**.

DISCUSSION: **Senator Stennett** inquired about the time frame in an extreme peril situation. She expressed concern for the Legislature's capacity to act quickly and afford the length of time before an action is necessary in a real crisis. **Senator Winder** estimated it would be a fairly short period of time; within a matter of days if there was a real crisis. These code changes allow the Legislature to actually function and control its role. The Governor cannot extend any State of Emergency beyond 30 days without a concurrent resolution from the Legislature, which could not occur without calling the members back into session. **Senator Burgoyne** referred to the Civil War and expressed his concern regarding whether the executive branch would have the ability to get back into session during a period of chaotic unrest. He conveyed concern for the emergency statute's accuracy and reminded the Committee that the application of legislation is necessary to prevent potential recourse of unforeseen problems.

MOTION: **Senator Harris** moved to send **RS 28189** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

RS 28210 **Relating to Emergency Powers of the Governor.** **Senator Winder** explained this was not an original part of the negotiation with the House. It was believed Idaho Code § 46-601 and Idaho Code § 46-1008 addressed the emergency power problem and terminated the Governor's declaration that allowed him to assume those powers. He indicated the Senate had prepared its own concurrent resolution, referencing line 20 of **RS 28210** as the primary difference in the legislation presented.

Senator Burgoyne cited **RS 28186** and **RS 28187** as having no emergency clause, and then cited **RS 28189** as having one. He stated his purpose was to bring awareness of the need for continuity in legislation. **Senator Winder** agreed with Senator Burgoyne that the three RS's cited, even though they are definitional, need emergency clauses to avoid confusion. He restated that the primary concern toward preserving funding is for meeting the needs and care of the people.

DISCUSSION: **Senator Anthon** then discussed the attempt to restore a balance of power in the Idaho State Government. He reflected on the special Senate session and the under-accomplished agenda of many Idahoans who are looking to the Legislature for relief from school closures, mask mandates, and stay-at-home orders. He noted that ending the Governor's emergency wouldn't solve all the problems or issues in Idaho Code.

MOTION: **Senator Anthon** moved to send **RS 28210** to print. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 8:50 a.m.

Senator Lodge, Chair

Twyla Melton, Secretary

Shelley E. Turley, Assistant
Secretary