

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Thursday, February 11, 2021
TIME: 9:00 A.M.
PLACE: Room EW40
MEMBERS: Chairman Crane, Vice Chairman Armstrong, Representatives Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Furniss, Hanks, Skaug, Gannon, Mathias
**ABSENT/
EXCUSED:** None
GUESTS: Alex LaBeau - Idaho Association of Commerce and Industry, Jason Hancock - Idaho Secretary of State, Elizabeth Criner - JR Simplot Company, Benjamin Kelly, Food Producers of Idaho

Chairman Crane called the meeting to order at 9:00 a.m.

H 98/ RS 28507: **Rep. Monks** presented **H 98** and asked permission to jointly present **RS 28507** stating that if the committee agreed, it would replace **H 98**. Both pieces of legislation protect the separation and balance of powers between the executive and legislative branches of government; ensures all Idahoans have the right to work, provide for their families and contribute to the economy during an emergency disaster declaration; and limit emergency disaster declarations to a maximum of 60 days unless extended under certain provisions. They also clarify that the governor may not alter, adjust or suspend Idaho Code during a disaster declaration.

The following changes were made to **RS 28507**: Rules from 1998 were removed; Page 2 line 14 the words by the Governor were added; Page 2 Lines 24 and 40 the words any number of days were removed and three hundred sixty-five (365) days were added. **RS 28507** does not prohibit the Governor from being able to declare an emergency. It does allow the Legislature to be involved if the emergency goes on for a long period of time. While it allows the Governor to suspend rules to address the emergency, he or she cannot change laws during the emergency. The proposed legislation does not hinder the use of the National Guard. Neither State Emergency Fund or FEMA funds would be negatively affected.

Chairman Crane put the committee at ease at 9:18 a.m. due to technical difficulties with streaming.

Chairman Crane reconvened the meeting at 9:30 a.m.

In response to questions, **Rep. Monks** said that the Governor's Office has the authority to extend emergencies for receipt of federal funds and resources. He clarified that the conduct of Idaho state government agencies is always under the Governor's purview. If Idaho code needs to be changed during an emergency declaration, the legislature would need to be called into a special session and proposed changes would go through the regular law-making process. The Governor may extend an emergency for a specific time frame and may also end an emergency. The Legislature may also end an emergency declaration through Concurrent Resolution. If there is a violation by the Governor's Office recourse is through the court system.

Alex LeBeau, Elizabeth Criner, and Benjamin Kelly testified in opposition to **H 98**. They were confused by some of the provisions and expressed that the first section is problematic. It was expressed that the Legislature should not be involved in local emergencies. There was concern that language is not in accordance with FEMA, specifically the Stafford Act. Farmers need to have things fixed when damaged in a disaster and if the Legislature has to be called into session, there is a time lag.

Margie Baker testified in support of **H 98**, with proposed amendments, mainly changing the word must to shall throughout the legislation. She also said that a new emergency should not be allowed to be declared every 60 days.

In closing, **Rep. Monks** said that **RS 28507** is not changing the Governor's ability to declare an emergency. It puts protections into place regardless of who is leading the administration. Both for the Governor's office and the Legislature.

MOTION: **Rep. Palmer** made a motion to **HOLD H 98** in committee. **Motion carried by voice vote.**

MOTION: **Rep. Palmer** made a motion to introduce **RS 28507** and recommended it be sent directly to the second reading calendar.

SUBSTITUTE MOTION: **Rep. Gannon** made a substitute motion to introduce **RS 28507**. **Motion failed by voice vote.**

During discussion, it was noted that this proposed legislation is a reaction to what the public and the legislature saw as an infringement on constitutional rights during the pandemic. It was expressed that it is not typical to make these types of decisions during a declared emergency and that it is appropriate for the Governor to take executive action during an emergency. It was stated that if the entire legislature has to convene, it will be hard for everyone to agree quickly and that a good approach would be for the legislature to address pieces and parts of the code that are not working.

VOTE ON MOTION: **Motion carried by voice vote.** **Rep. Gannon** requested to be recorded as voting **NAY**. **Rep. Monks** will sponsor the bill on the floor.

RS 28496: **Rep. Blanksma** presented **RS 28496** to allow political subdivisions of no more than 140 voters to request that the appropriate board of county commissioners allow at-large elections rather than by district, zone or subdistrict. There are less than 40 districts that fall under this definition.

MOTION: **Rep. Scott** made a motion to introduce **RS 28496**. **Motion carried by voice vote.**

RS 28383: **Rep. Young** presented **RS 28383** to authorize the Secretary of State to order a post-election audit of election results after a general or primary election, using procedures he would provide to county clerks at least 60 days prior to the election. Conducting such an audit would increase public confidence in election results by checking the paper ballots, which exist for each and every vote cast in Idaho, against the election results that counties tabulate and report. If problems are identified with any reported election results, the Secretary of State could order the audit of additional ballots. This proposed legislation is broad because there are so many differences in how counties run their elections.

Rep. Young said that there are no audits after an election, at this time. The election equipment is certified before each election. **Jason Hancock** of the Secretary of State's Office confirmed vote counting processes differ from county to county. He said his office will work with each county to determine the audit process. If **RS 28383** is introduced the committee would like more information about the scope of the audits and how precincts or counties will be selected for an audit.

MOTION: Rep. Armstrong made a motion to introduce **RS 28383. Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:32 a.m.

Representative Crane
Chair

Kelly Staskey
Secretary