

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 17, 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:**

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.

S 1063 **Relating to the Secretary of State to revise provisions related to storage of records.**

Jason Hancock, Deputy Secretary of State, said **S 1063** addresses discrepancies and would allow the Secretary of State to move records into storage without having to obtain permission.

DISCUSSION: **Senator Burgoyne** said records may end up in an unofficial storage location if the bill is enacted, and asked if **S 1063** needed language to ensure records ended up in a secure location. **Mr. Hancock** said the statute contains language that requires record storage be in a secure location. He acknowledged that a personal residence does not meet that standard, and that procedures are in place so records are easily accessible. **Mr. Hancock** also said records that the Secretary of State's Office determine can be archived are released to the Idaho State Historical Society for placement.

MOTION: **Senator Heider** moved to send **S 1063** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion.

DISCUSSION: **Senator Burgoyne** said he supported the motion but thought it would be useful to look at what the Code requires.

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

S 1065 **Relating to Notaries Public to revise provisions related to certain facsimile signatures.**

Mr. Hancock said **S 1065** amends Idaho Code to eliminate authorization for use of the Governor's facsimile signature in the commissioning of notaries public. That responsibility currently belongs solely to the Secretary of State.

MOTION: **Senator Harris** moved to send **S 1065** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

S 1112 **Relating to The Legislature to provide a process to call a special session of the Idaho Legislature.**

Senator Winder said current statute does not allow the Legislature to call itself into session. Current law does, however, allow the Governor to call a special session and then choose the topic for that session. **S 1112** adds a new section to Idaho

Code § 67-465 and states when 60 percent of the House and Senate agree on a topic, and both houses desire to convene a special session, they may do so. This bill will not take effect until after the 2022 election since it needs to go through a constitutional amendment process. **Senator Winder** said the language allows a special session to have precedence over an extraordinary session because the Legislature sets the agenda.

DISCUSSION: **Senator Burgoyne** identified four issues in **S 1112** that he said needed clarification:

1. Page 2, (5) lines 10-11, the language says no members may introduce legislation in a special session when normally committees do, unless it is a personal bill. Different terminology might be helpful.
2. Page 2, (6), lines 15-18, seems to talk about dueling special sessions between the Governor and the Legislature. The Governor's ability to call a special session is a matter of constitutional authority, that issue may have to be resolved with a constitutional amendment.
3. Page 2, (7), lines 19-23, says the President Pro Tempore of the Senate and the Speaker of the House of Representatives can agree to convene a remote session when the State Constitution says meetings must take place in the Capitol.
4. Page 1, (1) lines 12-13, states the requirement to send a hand-delivered or certified letter to the Secretary of State for a petition to hold a special session. If extraordinary circumstances take place, such as a natural disaster or terrorist attack, these actions may prohibit the delivery of the petition.

Senator Winder responded:

1. Legislators have introduced legislation before, specifically in extraordinary sessions, and were able to pass bills, and to stop bills in committee.
2. The language of the bill stipulates a constitutional amendment has to occur in order to go above the Governor's call for an extraordinary session, and that the citizens of Idaho will vote on it.
3. If a special session must be held remotely, this bill allows the Speaker of the House of Representatives and the President Pro Tempore of the Senate to designate a remote session.
4. There are already procedures where a hand-delivered petition or certified letter gets to the Secretary of State. Leaving them in place ensures the Legislature goes through the correct process to convene a special session.

Senator Stennett asked why the bill requires 60 percent of members from the House of Representatives and the Senate to call for a special session when two-thirds is the normal standard. **Senator Winder** said the language is clear in stating 60 percent, which is provided for in the constitutional amendment. **Senator Stennett** asked how it would work if both the Governor and the Legislature convene sessions simultaneously. **Senator Winder** said if the Governor called a special session to discuss restrictions on health districts, and then the Legislature called itself into session, the executive branch would not be able to dictate or limit the topic(s) the Legislature can cover in that session. **Senator Winder** said **S 1112** will protect the Legislature's efforts to deal with important issues.

Senator Anthon said **S 1112** does not deny the people's right to participate because they will vote on the constitutional amendment if this Legislature passes the bill. He also said he felt there was confusion over the two-thirds vote debate and clarified the bill only pertains to calling a special session, not the amendment process.

Senator Burgoyne said he would support the bill despite his concerns. He feels there may be a need for other legislation in this situation.

TESTIMONY: **Del Chapal**, Boise, ID, testified in support of **S 1112**. **Mr. Chapal** said he felt underrepresented throughout the COVID-19 pandemic and wants the Legislature to have the ability to call its own sessions to protect citizen's rights. He felt the Governor's decision to not call for a special session hurt the people of Idaho.

DISCUSSION: **Senator Stennett** asked how the figure of \$21,300 in the fiscal note was arrived at when the cost for a normal day during regular session is around \$30,000. **Senator Winder** said per diem is not allocated in special session, creating the lower cost written in the statement of purpose.

MOTION: **Senator Heider** moved to send **S 1112** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion.

DISCUSSION: **Senator Guthrie** said he sees the need for this legislation but feels the two-thirds vote, not 60 percent, from both the Senate and House should be the mark for any joint petition. He also said language that was more specific to what types of emergency situations qualify to call a special session would also strengthen this bill. He will therefore not support this bill as written. **Senator Winder** explained that **S 1112** is not a constitutional amendment, and there is still a requirement to have a two-thirds vote on the constitutional amendment.

Senator Burgoyne said he agrees with Senator Guthrie's concerns; if **HJR 1** fails on the floor, **S 1112** becomes obsolete. **Senator Winder** clarified that the majority leaders in the House and Senate felt a process to call a special session to order was needed before the constitutional amendment was up for a vote in 2022.

Senator Stennett asked if there is a time limit placed on how long a special session can last. **Senator Winder** referred to page 2, lines 24-25 of **S 1112**, which explains that the Legislature will determine the length of any special session.

VOICE VOTE: The motion carried by **voice vote**. **Senator Guthrie** was recorded as voting nay.

HJR 1 **Proposing an Amendment to the State Constitution related to the sessions of the Legislature.**

Senator Winder said the resolution is an amendment to Section 8, Article 3, of the Idaho Constitution. He clarified it requires a two-thirds vote by the Legislature before a vote by the public can be held. He said the legislation creates a greater balance of power between the Legislature and the executive branch. The Legislature has already dealt with unjustified restrictions by the Governor's Office in not being able to call themselves into session. He read from Article 2 of the Idaho Constitution regarding distribution of powers. It states in Section 1 the government is divided into legislative, executive and judicial branches, and that no branch can exercise powers that belong to another branch except what the constitution directly permits. The executive branch has the authority to call an extraordinary session to order and can limit the subject matter. **HJR 1** will give the Legislature more of an equal voice.

DISCUSSION: **Senator Stennett** asked Senator Winder to expand on the language of **HJR 1** that states when an extraordinary session can convene and how an organizational session can convene the first Thursday after a general election. **Senator Winder** said its purpose is to clarify the different sessions that take place: regular session, organizational session, extraordinary session (called by the Governor), and then the special session cited in **HJR 1**.

Senator Burgoyne said he supports the ability for the Legislature to call itself back for a special session. He listed several concerns, including:

1. If this bill is the right constitutional amendment to bring forward.

2. It could be a reactionary amendment due to the events of the COVID-19 pandemic.
3. Stronger language may be in order since this amendment could be in the State Constitution for many years to come.
4. The Idaho Legislature could become a de facto full-time Legislature instead of part-time.
5. Insignificant subject matters will come about in special sessions, especially around general elections for political positioning.
6. Dueling sessions need to be addressed in the amendment with a pass to the Idaho Supreme Court for judicial review.
7. The language needs to be limiting with respect to emergencies.

Senator Burgoyne then circled back to **S 1112** and said he thinks the vote to file a joint petition should be amended to two-thirds of the House of Representatives and the Senate because it coincides with **HJR 1**. He therefore cannot support **HJR 1** because of the aforementioned issues, but would support an amendment. **Senator Winder** clarified that line 21 of **HJR 1** says a joint written request is required, which gives the Legislature the protection it needs.

MOTION: **Senator Anthon** moved to send **HJR 1** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion.

DISCUSSION: **Senator Guthrie** said he takes a constitutional amendment very seriously and there is one chance for the Legislature to have the ability to create legislation that will allow it to call itself into session. If the language in **HJR 1** is tightened up, it could pass. He is in favor of the Legislature having this ability, but at this time, and as written, he cannot support this legislation. **Senator Winder** said this legislation aims to restrict the length of time for special sessions and explained he does not want the Legislature to be full-time and feels **HJR 1** will keep it from becoming so.

Senator Lee said she agrees with Senator Guthrie's concerns. She would like tighter language in the bill, a two-thirds vote by the Legislature, and approval by the people. She acknowledged that **HJR 1** is the best option currently for the Legislature to call itself to session.

Senator Burgoyne said he will not vote to support **HJR 1**. If **HJR 1** fails, he hopes the Legislature will work on a better amendment for the people of Idaho to vote on; he feels it needs to be on the ballot in 2022 as this issue is past due for consideration.

Chairwoman Lodge said she would prefer a two-thirds majority vote for **HJR 1** to reach the ballot but recognized some compromises might have to be made in order to pass it.

VOICE VOTE: The motion carried by **voice vote**. **Senators Guthrie, Stennett, and Burgoyne**, were recorded as voting nay.

S 1110 **Relating to Ballot Initiatives and Referendums to ensure that signatures are gathered from each of the 35 legislative districts.**

Senator Vick said **S 1110** aims to change the signature gathering rules for initiatives. **S 1110** changes the number of districts required to get an initiative on the ballot from 18 to 35. The percentage of registered voters required from each district remains at 6 percent. **Senator Vick** handed out a map of Idaho showing that Kootenai, Ada, Canyon, and Bonneville Counties contain 18 legislative districts, making gathering signatures in the other 17 counties a moot point (see

Attachment A). **S 1110** aims to ensure that voters in rural areas are represented as the population in Idaho grows in urban areas.

DISCUSSION: **Senator Stennett** asked how **S 1110** will evenly represent Idaho's citizens as it looks like he is weighing rural over urban. **Senator Vick** said **S 1110** does double the number of districts but not the number of signatures required. Six percent of registered voters statewide would still be needed, and representation will stay equal because the legislative districts have equal populations within 10 percent. **Senator Stennett** mentioned Idaho is one of only two states that requires signature gathering from registered voters for ballot initiatives. By increasing the required number of districts, it will make Idaho's ballot initiative policies even stricter. **Senator Vick** said he believes **S 1110** is beneficial because it will require input from every legislative district instead of a few population centers.

Senator Burgoyne asked if Senator Vick thinks urban voters' opinions matter less than rural voters. **Senator Vick** said that they are equally important, but feels all voices should be a part of the initiative process. **Senator Burgoyne** asked about the hypothetical example that if one legislative district strongly opposed an initiative and essentially vetoed it, the initiative would not get placed on the ballot. That type of power seems to suggest that we are allowing one district to veto the opportunity to get the initiative on the ballot which is not democratic. **Senator Vick** said he feels **S 1110** is democratic because it only requires 6 percent of voters in each district to move an initiative forward.

TESTIMONY: **Scott Steele, Richard Durrant, Zak Miller, Brad Roberts, John Brady, Bryan Searle, and Jon Basabe**, all of Idaho (see Attachment B) testified in support of **S 1110**. They said this bill would provide all citizens, in both urban and rural areas a chance to have their voices heard concerning ballot initiatives.

Lori Anne Lau and Andrew Mix sent in written testimony in support of **S 1110**. They felt **S 1110** would allow citizens from all areas of the state to count and to be heard equally. (See Attachment C).

William Esbensen, Hollie Conde, Katherine Dawes, Denise Thompson, Yvonne Sandmire, Donald Williamson, Ashley Prince, Elizabeth Rodgers, Cynthia Dalsing, Kayla Dodson, Elaine Kazakoff, Garrett Castle, Mike Medberry, and Jon Basabe testified in opposition (See Attachment B) to **S 1110**. All felt that Idaho's current ballot initiative measures are already too strict and **S 1110** would silence the voices of many Idaho voters.

Rae Charlton, Lori Wright, Russ Belville, Doug Paddock, John Orlovich, Brie Katz, Ellen Spencer, Mike Young, Melanie Edwards, Gretchen Wissner, Michael Richardson, and John McClain, sent in written testimony in opposition to **S 1110**. They wrote that **S 1110** would make getting initiatives on the ballot all but impossible, would make the process more difficult, and could mean only well funded organizations will be able to get initiatives on the ballot. (see Attachment D).

ADJOURNED: **Chairwoman Lodge** announced that testimony on **S 1110** would continue on February 19 for those signed up who did not get to testify at this meeting. There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 10:18 a.m.

Senator Lodge, Chair

Twyla Melton, Secretary

Florence Lince, Secretary