

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 24, 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 8:05 a.m.

PAGE INTRODUCTION: **Chairwoman Lodge** introduced Colton Rietema, page for the second half of this Legislative Session. **Mr. Rietema** gave a brief overview of his background. **Chairwoman Lodge** asked Mr. Rietema what he liked to do in his spare time. **Mr. Rietema** said he likes to raise honeybees and has started his own small business. He currently has 16 beehives and hopes to have 40 by the end of this year. **Chairwoman Lodge** asked how many bees are in each hive. **Mr. Rietema** said between 30,000-40,000. **Chairwoman Lodge** welcomed Mr. Rietema to the Committee.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Lee** moved to send the Gubernatorial appointment of Evelyn Johnson, to the Idaho Human Rights Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

RS 28655 **Unanimous Consent Request from the Senate Health and Welfare Committee to clarify definitions and the powers and duties of the Director of the Department of Health and Welfare.**

MOTION: **Senator Anthon** moved to send **RS 28655** to print. **Senator Lee** seconded the motion.

DISCUSSION: **Senator Winder** said **RS 28655** clarifies the powers and duties of the Director of the Department of Health and Welfare and commended Senator Lee on her work in bringing **RS 28655** forward. **Senator Winder** noted the bill has the support of the Executive Branch.

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

S 1061 **Relating to Elections to provide for clearer and more consistent deadlines in the election processes.**

Jason Hancock, Deputy Secretary of State, stated **S 1061** is known as "the dates and deadlines" bill. He stated that the changes are being proposed for clarification and reviewed the changes in the bill on a section by section basis as follows:

1. Idaho Code § 34-106, page 2, subsection 8, would add the month of March in a Presidential election year as a major category within elections for political subdivisions.

2. Section 9 deals with recall elections. This bill would move the deadline to submit a recall with the appropriate number of signatures needed from 45 to 60 days before the actual election.

3. Section 2 deals with deadlines that fall on a holiday or a weekend. This bill clears up ambiguities about what day the deadline falls on by adding the phrase, "or any specified day of the month."

4. Sections 3 and 4 deal with candidate withdrawals from an election. Idaho Code § 34-715 says if a vacancy is on the ballot 10 days before a general election that person can be replaced. This bill would set the standard to be 10 days before a primary election and 50 days before a general election.

5. Section 5 deals with recall petitions. This bill would require officials being recalled to submit their 200- word justification statement no later than 5 days after a recall petition is validated, or for them to resign.

DISCUSSION: **Senator Burgoyne** said page 2, subsection 8, is confusing and requested clarification. **Mr. Hancock** said this bill inserts the wording "the month of March of a Presidential election year" to align the election order deadline for the presidential primary with the 60-day standard used in the State primary.

MOTION: **Senator Heider** moved to send **S 1061** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

S 1064 **Relating to Election Ballots to clarify when a replacement ballot may be Issued.**

Mr. Hancock stated this bill gives clear direction to election clerks that once a voter has requested a particular absentee ballot type, the voter cannot request a ballot for a different party. The only reason to issue another ballot to a voter would be if the county clerk's office made the error.

DISCUSSION: **Senator Burgoyne** asked what logistical or legal issues might arise from passing **S 1064**. **Mr. Hancock** explained that voters request sample ballots far in advance of any election. Hence the sample ballots sent out would only be useful for elections with President, State Senators, US Senate, Congress, Governor and Statewide races. **Senator Burgoyne** asked how many voters actually asked for a different ballot during the last election. **Mr. Hancock** stated the most common request was from voters who originally requested a nonpartisan absentee ballot then requested a Republican or Democratic ballot. **Mr. Hancock** said he did not know how many voters did so.

Senator Stennett asked if someone requested an absentee ballot, could they then vote in person. **Mr. Hancock** said yes, and the absentee ballot would be spoiled at the polling location. **Senator Stennett** asked how many absentee ballots were spoiled during the last election. **Mr. Hancock** said he did not have hard numbers to report, but he did say some county clerks allowed for spoiling ballots and some did not, so there was inconsistency across the State.

Phil McGrane, Ada County Clerk and Chairman of the Elections Committee, provided some clarity to this situation. **Mr. McGrane** said the most common issue during the last election was the nonpartisan voter who received their ballot but then wanted to switch to another party to vote. The challenge occurred because the Secretary of State's office was not able to provide guidance at that time; the Legislature had not made a decision about how to handle such situations.

MOTION: **Senator Guthrie** moved to hold **S 1064** in Committee. **Senator Stennett** seconded the motion.

DISCUSSION: **Senator Burgoyne** said he wants voters to be able to request alternative ballots but a fair, consistent process must be used throughout the State.

Senator Heider voiced his objection to the motion stating the bill language is clear.

Senator Winder said he is opposed to the motion. Idaho already has a good voting system in place; this bill is a way to deal with the process to help voters.

SUBSTITUTE MOTION: **Senator Winder** made a substitute motion to send **S 1064** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion.

ROLL CALL VOTE: **Chairwoman Lodge** called for a roll call vote on the substitute motion. **Senators Winder, Anthon, Heider, Burgoyne,** and **Chairwoman Lodge** voted aye with **Senators Anthon** and **Burgoyne** reserving their right to change their vote on the floor. **Senators Harris, Lee, Stennett,** and **Vice Chairman Guthrie** voted nay. The substitute motion carried.

S 1086 **Relating to the Anti-Boycott Against Israel Act to prevent public entities from entering into certain contracts that would boycott Israeli products.**

Allen Gorin, Founder/Director, Idahoans United for Israel, said **S 1086** will prohibit Idaho public entities from entering into contracts that would boycott goods or services from Israel or its territories, with exceptions for contractors with a potential value of less than \$100,000 or a contractor with 10 or less employees. To date, 30 states have advanced executive orders or passed similar legislation as this bill. **Mr. Gorin** described how Israel is an integral part of the world's economy and listed some examples of Israel's technology and other innovations such as farming, irrigation, and technology and in areas of operating systems, storage systems, automobile systems, and systems to support the CIA, FBI, and U.S. Marshals as well as police departments. **Mr. Gorin** noted that Israel's products have enriched the lives of U.S. citizens.

TESTIMONY: **David McGarrah**, Pastor, Deer Flat Church; **Rabbi Mendel Lifshitz**, Chabad Lubavitch of Idaho; **Amos Rothstein**, Executive Director, Idaho Republican Party; and **Bob Aldridge**, Attorney, spoke in support of **S 1086**. They agreed that not supporting this bill would be a vote against human rights, free economies, and a prosperous world economy.

Lauren Bramwell, ACLU of Idaho; and **Del Chapal**, citizen, testified in opposition to **S 1086**, saying the language in the bill is not clear enough and sounded like Idaho was being forced to do business with Israel. **Ms. Bramwell** argued this bill could be a violation of the 1st and 14th Amendments.

MOTION: **Senator Anthon** moved to send **S 1086** to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

S 1087 **Relating to Tobacco and Electronic Smoking Devices to ensure uniform laws.**

Pam Eaton, President and CEO, Idaho Retailers Association, explained that **S 1087** is designed to bring uniformity to State laws on the sale of tobacco and electronic cigarette products. The bill proposes two changes:

1. To match Federal law, individuals must be at least 21 years old. This bill will not change the law for those who stock or sell tobacco products.
2. Pages 5-6 outlines the State preemption clauses that prevent local authorities from implementing regulations that are more restrictive than State law. The bill does not change anything in the Clean Indoor Air Act as outlined on page 6, lines 4-7. Cities still have the ability to control where smoking is prohibited or not prohibited as well as other local options.

Ms. Eaton explained how uniformity helps with compliance and training, especially for retailers with locations in more than one community. It also provides fairness for competing retailers by ensuring they are all operating under the exact same regulations. **Ms. Eaton** emphasized, when it comes to tobacco issues, it is important to be in 100 percent compliance with State and federal laws..

DISCUSSION: **Senator Heider** asked if this bill included vaping products. **Ms. Eaton** said yes. This bill also changes the minimum age for those who wish to purchase vaping products from 18 to 21. She noted most retailers are currently operating under the federal law of age 21.

Senator Stennett stated that local movements banned cigarettes in public places and supported the national anti-tobacco movement; it seems they are not apart of this. Local officials cannot set the same rules for controlling vape shops as they would for tobacco retailers. **Ms. Eaton** responded that this only touches business regulations for uniformity; local authorities can still pass local ordinances. It doesn't address differences between tobacco or vaping products.

TESTIMONY: **Suzanne Budge**, Idaho Petroleum and Convenience Store Association; and **Melinda Merrill**, Northwest Grocery Association, testified in support of **S 1087**. This bill provides consistency about what laws to follow for all tobacco retailers in the State. The bill also addresses what taxes can be charged.

DISCUSSION: **Senator Burgoyne** asked Ms. Merrill why retailers could not use signage that says federal law prohibits the sale of tobacco products to anyone under 21. **Ms. Merrill** replied that signage saying local, state and federal law prohibits the sale of tobacco products to anyone under the age of 21 would be helpful and lend strength to the retailers when enforcing that requirement.

TESTIMONY: **Erin Bennett**, Government Relations Director, American Heart Association and **Kristin Page-Nei**, American Cancer Association both testified in opposition to **S 1087**. They believe this bill is unnecessary and prohibits licensing at the local level. **Ms. Bennett** said that undermining local leaders' ability to respond to an industry that is changing rapidly would prevent them from addressing new issues quickly. She asked to remove the preemptive segment of **S 1087**. **Ms. Page-Nei** added that this legislation would also affect how products are marketed.

DISCUSSION: **Senator Anthon** asked why this issue shouldn't be turned over to local governments or why the State couldn't propose a new law that creates advertising barriers to youth. **Ms. Bennett** responded that local communities need the ability to respond because they know what is best for their community. She indicated she would agree to that type of advertising, but it does not belong in this legislation; it would be in the master settlement agreement controlling tobacco restrictions. **Ms. Bennett** stated that electronic products should be in the master settlement agreement as well.

Senator Burgoyne inquired about the different needs for different communities. A community like Payette, sitting on the Oregon border, would have different needs than the community of Twin Falls. Youth in Payette could cross the border to make tobacco or vaping purchases, and then it would be up to the police to stop them when they crossed back over. Vaping devices can be used for marijuana or heavier-type drugs. **Ms. Bennett** agreed that the devices can be used for numerous types of paraphernalia and drug products.

Ms. Eaton reiterated that currently Health and Welfare reports a 96.6 percent compliance rate for retailers in Idaho. If the State's youth are using tobacco and vaping products, they are not getting them from the retailers. Making the rules consistent across the State will help in training staff, reduce confusion, and will help keep that high rating.

MOTION: **Senator Anthon** moved to send **S 1087** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion.

DISCUSSION: **Senator Anthon** spoke to his motion because, in the past, he has resisted efforts to change the minimum age from 18 to 21 to buy cigarettes when so many other aspects of life treat the age of 18 as adulthood. With the change in federal law to 21, making the change in the State would reduce confusion. **Senator Anthon** said he believes in local control. However, when there is a patchwork system in place that produces undue burden on businesses, then: 1) Governance and business in the State should have the lightest touch when it comes to regulation; and 2) Business regulations should be absolutely predictable. For those reasons, he has "strayed" away from his general rule of local control.

Senator Burgoyne stated his view that the issues being discussed today concerning the retailers, the age, local options, etc., is not the problem. The problem is the tobacco companies. The country, the State, and local communities have not been able to control the State's youth from becoming addicted to tobacco. Vaping was touted as a solution and instead has become an additional problem; it was just another way to "hook" kids. **Senator Burgoyne** said anti-tobacco company measures are the only way to combat this problem.

Senator Stennett agreed that this bill should match the federal law that changed the age from 18 to 21 providing consistency and strength to State laws. However, the tobacco industry adds new tobacco related products all the time and local governments need to have the latitude and flexibility to respond quickly.

SUBSTITUTE MOTION: **Senator Stennett** made a substitute motion to send **S 1087** to the 14th Order of Business for possible amendment. **Senator Burgoyne** seconded the motion. The substitute motion failed by **voice vote**.

VOTE: **Chairwoman Lodge** called for the vote on the original motion to send **S 1087** to the Senate floor with a **do pass** recommendation. The motion carried by **voice vote**. **Senator Stennett** and **Senator Burgoyne** were recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 10:21 a.m.

Senator Lodge
Chair

Twyla Melton
Secretary

Jeanne Jackson-Heim
Assistant Secretary