

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, March 15, 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 8:07 a.m.

**S 1168** **Relating to Elections to add a new section to establish funding for the administration of elections.**

**Senator Mary Souza**, District 4, reported that 20 Idaho counties applied for and received private money grants ranging from \$5,000 to nearly \$500,000 to assist with the 2020 election. **Senator Souza** provided a handout showing the distribution of grant funds to Idaho counties (see Attachment A). She stated that the Secretary of State was unaware of the grant funding. **Senator Souza** reported a small Chicago nonprofit, Center for Tech and Civic Life (CTCL), awarded the grants from a \$350 million contribution from Facebook owner Mark Zuckerberg and his wife. She advised that Tiana Epps-Johnson, the founder and Executive Director of CTCL, advocates for policy changes in elections by focusing on local election officials.

**Senator Souza** said that **S 1168** would require elections to be funded with government appropriations and prohibit local election officials from accepting or expending any private money. She noted that a prepared amendment to the bill would allow for donations of food items and physical spaces to hold an election. **Senator Souza** reported that the Secretary of State's Office and the Idaho Association of Recorders & Clerks are supportive of the bill. She added that several other states are considering similar legislation.

**Senator Stennett** asked if there was evidence of wrongdoing that precipitated the legislation. **Senator Souza** answered that she is unaware of any misdeeds but is concerned the process was not transparent and funds were not administered appropriately through a governmental system.

**TESTIMONY:** **Kathy Dawes**, resident of Moscow, testified in opposition to **S 1168** for the following reasons:

- Grants could supplement funding in case of future cutbacks.
- Funding could be used to increase civic engagement and support in-person and mail voting.
- The bill is an overreach and would prevent maximum voter opportunity.

**Jason Hancock**, Deputy Secretary of State, testified the Idaho Secretary of State (SOS) is in favor of **S 1168** with the proposed amendment. **Mr. Hancock** reported the SOS believes Idaho elections should be funded with government dollars and not supported by any private interest.

**DISCUSSION:** **Senator Stennett** asked if the 2020 election would have been as successful without the additional resources provided to the counties and if the private sector would be limited to making donations of food for election workers. **Mr. Hancock** responded the elections seemed to run well in the 24 counties that did not receive grants. He said that the SOS's concern is about money donations, not food or polling places. The SOS does not want election officials to be dependent on or beholden to private interests. **Senator Stennett** asked Mr. Hancock whether he helped draft the amendment. **Mr. Hancock** replied that he and Senator Souza spoke about the amendment in concept but he had not yet seen the amendment language.

**Senator Winder** asked for an estimate of federal money provided to help with 2020 election needs. **Mr. Hancock** answered that the State received approximately \$2.7 million in Help America Vote Act funds and a small amount from the Governor's Coronavirus Aid, Relief, and Economic Security Act money.

**Senator Burgoyne** inquired if Idaho counties ever postpone acquiring up-to-date voting equipment due to a lack of funds. **Mr. Hancock** they had, but there was a considerable increase in available funds for the 2020 election and he believes some counties addressed equipment needs at that time.

**TESTIMONY:** **Phil McGrane**, Ada County Clerk, stated **S 1168** addresses a unique, new policy question. He commented that the 2020 election was the most expensive election ever held in Idaho. **Mr. McGrane** distributed a copy of the Ada County CTCL grant contract to the Committee and pointed out the provision specifying the allowed use of funds (see Attachment B). He noted that the counties faced unusual challenges, including a shortage of poll workers. **Mr. McGrane** advised that in mid-September 2020, the Idaho Association of Counties notified all 44 county clerks of the availability of grant funds. He reported many counties did not have time to submit a grant application to CTCL.

**Mr. McGrane** explained the counties used the grant money primarily for temporary staff wages, personal protective equipment, and security cameras to document the handling of absentee ballots. He noted some clerks struggled with COVID-19 spread in their offices just prior to the election. **Mr. McGrane** reported the counties had no policy guidance for private grants, and the clerks are willing to follow the Legislature's direction. He commented that all federal money comes with strings attached. **Mr. McGrane** remarked that election costs continue to rise, primarily for cybersecurity to protect election infrastructure. He gave examples of donations of space and services received for the 2020 primary election that would be precluded by **S 1168**.

**Mr. McGrane** advised that almost all money obtained for elections is overseen by county commissioners, and property taxes are the primary source of election funding. He indicated there is a question whether the preferred source of election funding should be taxes, federal funding, or alternative private funding.

**DISCUSSION:** **Senator Burgoyne** asked if the CTCL grants came with strings attached. **Mr. McGrane** replied that Attachment B includes all the grant restrictions. He said the clerks were previously unaware that the source of grant funds was Mr. Zuckerberg. **Mr. McGrane** referred to Attachment A and observed that even though Ada County received the largest grant, it did not receive the most funding per registered voter.

**Chairwoman Lodge** asked if the amendment would prohibit a county from receiving donations of facility space. **Mr. McGrane** responded that it could result in additional costs to the counties to rent certain facilities.,

**Senator Souza** referred to the proposed amendment and clarified that the legislation would not apply to the donation of a facility or space for use of election officials in holding an election. She observed the legislation's goal is transparency,

and proper supervision and reporting of funding. **Senator Souza** advised the bill addresses a weakness in the system. She stated it is important to stop possible influence of outside private money from any source to maintain election integrity.

**MOTION:** **Senator Anthon** moved to send **S 1168** to the 14th Order of Business for possible amendment. **Senator Winder** seconded the motion.

**DISCUSSION:** **Senator Burgoyne** commented that he supports Senator Souza's goals but the legislation does not accomplish them for several reasons; elections are underfunded and he is opposed to barring the grants, voting should be as easy as possible because it is a fundamental right, Idaho has free and fair elections and no problems exist, and grant funds made it easier to vote. **Senator Burgoyne** said he cannot support the motion.

**Senator Winder** advised that the bill will establish policy to help avoid the risk of improper election influence and is important for transparency. He commended Senator Souza for bringing the issue to light because it was previously unreported. **Senator Winder** suggested amending the fiscal note to reflect possible costs to the counties, and he stated his support for the bill.

**VOTE:** **Chairwoman Lodge** called for the vote on the motion to send **S 1168** to the 14th Order of Business for possible amendment. The motion carried by **voice vote**. **Senator Burgoyne** was recorded as voting nay.

**H 155** **Relating to Government Property for the transfer of property between government bodies.**

**Representative Tammy Nichols**, District 11, explained the bill would add recreation districts to the list of 12 governmental entities that can participate in the transfer of property from another governmental entity. **Representative Nichols** gave the example of a recreation district that spent a significant sum of money to improve a leased school building. She explained the lease expires soon and the school district wants to transfer ownership of the building to the recreation district. **Ms. Nichols** stated without the bill, taxpayers would have to pay for the building a second time.

**MOTION:** **Senator Anthon** moved to send **H 155** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

**DISCUSSION:** **Senator Anthon** commented that recreation districts and old schools are a perfect fit.

**VOTE:** **Chairwoman Lodge** called for the vote on the motion to send **H 155** to the floor with a **do pass** recommendation. The motion carried by **voice vote**.

**H 231** **Relating to Elections to amend the filing date for independent candidates for President and Vice President**

**Representative John McCrostie**, District 16, presented the bill to update the filing deadline for independent candidates for President and Vice President, which presently falls after the earlier deadlines for all other Presidential and Vice Presidential candidates and independent candidates for State and county offices. **Representative McCrostie** noted that he brought the bill because Kanye West filed as an independent candidate for President in Idaho on August 25, 2020. He said Mr. West was not a serious candidate, and the August 25 deadline does not allow enough time for a serious Presidential campaign. **Representative McCrostie** advised that the change will affect both parties equally and will allow the SOS to finalize ballots sooner.

**MOTION:** **Senator Guthrie** moved to send **H 231** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**H 243 Relating to Campaign Finance to revise provisions regarding candidate campaign contribution limitations.**

**Representative Brooke Green**, District 18, explained the bill would allow a candidate for either an Idaho House or Senate seat to transfer the full balance of an established campaign account into one for a new legislative seat. **Representative Green** added that the total contributions from one person or entity could not exceed the maximum amount allowed for either the primary or the general election during the same election cycle. She noted the bill affects both political parties equally and is important in a redistricting year when legislative boundaries are likely to change but are yet unknown.

**DISCUSSION:** **Senator Winder** asked whether a legislator could transfer funds to another candidate if the legislator decides not to run for reelection. **Representative Green** responded no, the bill applies only to a legislator's own campaign account if moving from one body of the Legislature to another.

**Senator Anthon** inquired if the bill would apply to a legislator who decided to run for SOS or another office. **Representative Green** answered that the bill only applies to House and Senate seats.

**Senator Lee** asked whether a representative who wants to challenge her Senate seat could transfer his full account for that purpose. **Representative Green** replied yes.

**Senator Stennett** requested clarification on the dollar amount that could be transferred between accounts. **Representative Green** responded that funds could not be transferred in excess of the established threshold per donor.

**MOTION:** **Senator Guthrie** moved to send **H 243** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**H 279 Relating to the Committee on Federalism in regard to the sunset provision.**

**Senator Dan Johnson**, District 6, presented the bill to remove the sunset clause for the Committee on Federalism (COF). **Senator Johnson** gave a brief history and purpose of the COF and provided a definition of "federalism." He reported the COF met several times and created three subcommittees to address specific issues.

**DISCUSSION:** **Senator Stennett** asked if the \$15,000 figure in the fiscal note is an annual or one-time cost and inquired about the COF's accomplishments. **Senator Johnson** responded the fiscal note is an annual, conservative number. The Federalism Subcommittee on Federal Lands proposed **S 1368** in 2020 regarding the Idaho Roadless Rule Implementation Commission. He stated the Federalism Subcommittee on Health and Welfare drafted legislation requiring annual reporting to account for reductions in federal funds. **Senator Stennett** asked if Senator Johnson wants the COF to exist in perpetuity with the three subcommittees attached to it. **Senator Johnson** replied that the existing subcommittees could be dissolved if the COF decided to study different areas of federalism.

**MOTION:** **Senator Anthon** moved to send **H 279** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion.

**DISCUSSION:** **Senator Burgoyne** said he could not support the motion. He reported he was a member of the COF and did not think it had accomplished anything of note. **Senator Burgoyne** observed the COF became a forum for certain legislators to discuss ongoing topics rather than special issues and that this legislation is flawed because the co-chairs of COF decide which subcommittees to implement and can appoint anyone to serve them even if they are not COF members.

**TESTIMONY:** The Committee received testimony from Jonathan Oppenheimer, representing the Idaho Conservation League, in opposition to **H 279**. He opposed the bill because:

- The COF has not produced any reports or fulfilled its statutory meeting obligations.
- Public lands issues are addressed at the Congressional level.
- He disagrees with the proposals advanced by the COF.
- The type of bill previously proposed by the COF does not require a special committee and expenditure of State funds.

**VOTE:** **Chairwoman Lodge** called for a vote on the motion to send **H 279** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. **Senator Stennett** and **Senator Burgoyne** were recorded as voting nay.

**HCR 8** **Stating Findings of the Legislature calling for a study of the impact of the U.S. Government Payment in Lieu of Taxes program.**

**Senator Harris** presented **HCR 8**, which would authorize the COF to address the federal government's failure to make appropriate payment in lieu of taxes (PILT) to Idaho counties. The resolution also directs the COF to identify a pilot technology to determine the fair taxable value of federal lands. **Senator Harris** provided a brief history and overview of the PILT program. He explained that 63 percent of Idaho lands are owned by the federal government, and Idaho receives \$32 million per year in PILT, averaging 95 cents to 99 cents per acre (see Attachment C). **Senator Harris** remarked that most states east of the Rocky Mountains fund public education through property taxes, but Idaho's education spending is relatively low compared to states with fewer acres of federal lands. He noted that Idaho taxable lands generate \$128 per acre in property tax revenues, and Idaho Department of Lands property generates \$17.14 per acre. **Senator Harris** observed that Idaho counties rely heavily on PILT to survive but it is an unreliable revenue source. The resolution will allow for an objective standard to evaluate and appraise federal lands to determine a fair PILT reimbursement, he said.

**Senator Stennett** asked if Senator Harris wants the federal government to increase PILT funding, and what percentage increase is needed to adequately cover any shortfall. **Senator Harris** replied that he thinks PILT should be increased but does not know the amount needed.

**TESTIMONY:** The Committee received testimony in opposition to **HCR 8** from: Hollie Conde, Conservation Voters for Idaho; Cindy Riegel, Chair, Teton County Commission; Michael Gibson, Trout Unlimited; and Jonathan Oppenheimer, Idaho Conservation League. Their reasons for opposition to the bill included:

- A study will be expensive and a waste of Idaho tax dollars.
- The PILT program is complicated with ineffective metrics and should be completely reformed.
- The resolution was written to preselect one technology provider, understates the costs of the technology, and will result in Idaho money going to out-of-state interests.
- PILT has been fully appropriated and paid to counties since 2008.
- The University of Idaho Policy Analysis Group already exists and could conduct a study on reforming PILT.
- Idaho's Congressional delegation and others are already working on PILT reform.
- It is unnecessary to determine fair market value because the land is not for sale, and public lands do not require the same level of services as private lands.
- The recently enacted American Rescue Plan provides additional funding to counties for fiscal years 2022 and 2023.

- The Idaho Constitution states that federal public lands shall not be taxed.

**DISCUSSION:** **Senator Harris** reported that Utah received several competing bids for the same type of study. **Senator Harris** stated that Federal lands cannot be sold, the counties have waited a long time for PILT to be reformed, and the resolution will allow the COF to review options.

**Senator Stennett** asked if Idaho will pay \$250,000 to a single private entity for that entity's personal gain; a proprietary software program in the hands of someone with a particular objective would result in personal gain for that person. **Senator Harris** answered that the fiscal note states the technology cost will not exceed \$250,000, and he has no knowledge of the bidding process. He disagreed that fees paid under a contract would result in personal gain but rather would be used to operate a business.

**Senator Anthon** commented that he does not see the words "for personal gain" in the Statement of Purpose.

**Senator Burgoyne** expressed his opinion that the resolution was written with one technology provider in mind. He also noted that the word "implementation" in the resolution is unclear. **Senator Burgoyne** said it is important to consider other options, and he believes the resolution is misguided. He urged the COF to focus on the politics of PILT and not a specific technology.

**Senator Winder** asked if the representative is still with the technology company that developed the software presented to the COF. **Senator Harris** answered that he does not know. **Senator Winder** inquired if one of Idaho's universities could bid on the contract, or if the technology is too specific. **Senator Harris** replied that anyone can bid on it.

**Senator Guthrie** asked how many counties would be studied in the pilot, and whether the counties were identified. **Senator Harris** responded that he does not know.

**MOTION:** **Senator Anthon** moved to send **HCR 8** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

**DISCUSSION:** **Senator Guthrie** advised that he reserves the right to oppose the resolution on the floor of the Senate. He added that problems with PILT are well known, and he thinks the first line of inquiry regarding property values should be with the county assessors. **Senator Guthrie** said he found it interesting that no counties testified in favor of the resolution, even though this is the second public hearing on the resolution. He remarked that he is worried about unintended consequences and negative impacts on Idaho's mining, timber, and grazing industries. **Senator Guthrie** commented that the federal government made most of the desirable land available for private ownership under the Homestead Act. He expressed concern about obtaining a fair valuation process from a private company or beginning a pilot technology in a county that is opposed to the resolution.

**Chairwoman Lodge** stated she, too, reserves the right to make a decision on whether or not to support the resolution. She mentioned that she hopes to get some additional information before the resolution is heard on the floor.

**Senator Lee** reported that she shares some of the concerns expressed by the Committee. She remarked that more counties might become involved as the resolution moves forward.

**Senator Winder** said he seconded the motion based on the representation that the bidding process would be open to universities and the private sector.

**Senator Burgoyne** advised that the presentation to the COF implied that the

software is a unique product. He commented that he has problems with the resolution in general.

**VOTE:** **Chairwoman Lodge** called for a vote on the motion to send **HCR 8** to the 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 9:58 a.m.

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Senator Lodge  
Chair

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Twyla Melton  
Secretary

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Jeanne Jackson-Heim  
Assistant Secretary