

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 15, 2023

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Harris, Lee, Toews, Wintrow, and Ruchti

ABSENT/ EXCUSED: Senator Anthon

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: **Chairman Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:03 a.m.

PRESENTATION: STATE OF THE GUNFIGHTER ADDRESS. Col. Ernest DiVittorio, Wing Commander, 366th Fighter Wing, Mountain Home Air Force Base (MHAFB), introduced his staff to include the following: Chief Master Sgt. Cedric Foster, Command Chief; Capt. Krystal Jimenez, Public Affairs Officer; Capt. Stewart Harris, Senior Intelligence Officer; Master Sgt. Ian Clark, Intelligence Superintendent; Tech Sgt. Stephen Ocenosak, Community Relations Specialist; and Trace Giles, Community Partnerships Director. **Col DiVittorio** presented an overview of MHAFB and its partnership with the City of Mountain Home (City) as a community within a community (Attachment 1). MHAFB had 10,043 personnel and created 8,138 jobs at a value of \$161,214,000. It boasted 135,000 acres of training range. **Col. DiVittorio** shared how closely the MHAFB and the City worked on items like electricity and water to accomplish their mutual needs. He commented on an 80/20 partnership whereby the Department of Defense (DOD) paid 80 percent of costs for a water treatment plant with water rights gifted by the Simplot Corporation, and the City paid 20 percent of the costs. He emphasized five areas that made the City an ideal partner for the MHAFB: 1) Spouse employment; 2) housing, which was increased by 800 units; 3) healthcare provided by St. Luke's Elmore Medical Center and MHAFB; 4) childcare with a new Child Development Center built with military construction funds; and 5) education with public schools on the Base. He commented that the Air Force recruited people but it retained families.

Senator Ruchti asked how families dealt with childcare if both parents were deployed. **Col. DiVittorio** informed that staff were required to have a family care plan in place that addressed short- and long-term deployment. At the invitation of Senator Wintrow, Col. DiVittorio's daughter, **Jacqueline**, spoke to her experience the last 13 years in a military family.

Senator Winder asked if MHAFB was considered to house the F-35 planes. **Col. DiVittorio** explained the DOD desired to spread out the fighter capabilities. He said MHAFB was strong with the F-15s and newer model planes and will continue hosting other training units and grow its training programs. **Senator Lee** asked about the recent balloon activity in the news. **Master Sgt. Clark** confirmed the North American Aerospace Defense Command (NORAD) and the Air Force tracked the United States (U.S.) and Canadian air space. There was no change in that operation but the U.S. tolerance for use of our air space may be changing as evidenced by recent activity. **Senator Schroeder** affirmed the City of Mountain

Home and MHAFFB had a great relationship. He considered MHAFFB a crown jewel in the State.

Chairman Guthrie paused the meeting at 8:30 a.m. for photo opportunities for MHAFFB Public Affairs Office. He reconvened the meeting at 8:37 a.m.

RS 30281C1

RELATING TO THE STATE DISASTER PREPAREDNESS ACT - Amends Section 46-1008, Idaho Code. **Senator Hart** explained legislation dealing with disasters was addressed in Title 46, the Militia and National Guard section of Idaho Code. **RS 30281C1** would limit government to a single 30 days extension on a declaration of disaster emergency. If a disaster emergency extended beyond a 60-day time frame, the Legislature would have to be called back into session to extend the declaration.

Senator Wintrow clarified the Governor could extend the declaration for 30 days and then the Legislature became involved. She asked to hear from the Governor about any implications this might pose. **Senator Winder** expressed concern about lowering restrictions that were put in place during the previous session. He said he was willing to work with the Attorney General's (AG) Office and House of Representative members to address any questions.

MOTION:

Senator Toews moved to send **RS 30281C1** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

S 1080

LEGISLATURE - Amends existing law to revise a provision regarding intervention by the Legislature in an action regarding an Idaho statute. **Senator Winder** characterized **S 1080** as a modification to code previously passed, which gave the Legislature the right to intervene in court cases important to the Legislature. It clarified that the President Pro Tempore (Pro Tem) and Speaker of the House (Speaker) could act on behalf of the Legislature.

Senator Wintrow recalled discussions in the past about this and asked how the Legislature intervened since the law was enacted and in what cases. **Senator Winder** stated there had been several constitutional and social issues before the courts like Planned Parenthood, the trigger bill, and land issues. He explained this was a funding mechanism for the Pro Temp and/or Speaker to initiate engagement for financial support. Defense funds were appropriated to the Legislature in cases where there was no agreement with the House or the Senate. **Senator Ruchti** commented that separating the House and the Senate to file lawsuits sounded unconstitutional. They were not independent bodies and had to act together. **Senator Winder** explained typically both bodies agreed for an intervention but there could be times in the future when their interests might differ and be subject to constitutional scrutiny. **Senator Ruchti** argued there was no standing that one body could intervene on its own. He anticipated challenges. **Senator Winder** affirmed the courts might question whether we had standing at all and further clarification was needed.

MOTION:

Senator Harris moved to send **S 1080** to the Senate with a **do pass** recommendation. **Senator Bernt** seconded the motion. The motion carried by **voice vote**. **Senators Ruchti** and **Wintrow** requested to be recorded as voting no.

H 25

CAPITOL BUILDING AND GROUNDS - Adds to existing law to authorize the director of the Department of Administration to control the use of the roadways adjoining the Capitol building. Representative Palmer described this as a simple bill. The Director of Administration in cooperation with the Idaho State Capitol Commission (Commission), Governor, and presiding officers of the Legislature had authority to control the use of the roadways adjoining the Capitol building and Steunenberg Park. **H 25** was proposed to address security and availability.

Senators Bernt and **Wintrow** asked for clarification about the use of the roadways exceeding seven days. **Representative Palmer** clarified seven days related to permanently dealing with roadways. Anything over that time the Commission would have to address. **Senator Wintrow** asked about the impact to agencies and entities like the Ada County Highway District (ACHD) and Boise City. **Representative Palmer** affirmed it could impact anything permanent.

TESTIMONY:

The following individuals registered to testify in opposition to **H 25**: Kathy Griesmyer, City of Boise; Scott Schoenherr, Rafanelli & Nahas; Clay Carley, Benn Brocksome, and Hethe Clark. In addition, five letters were submitted in opposition to **H 25** from Sean Wall, St. Michael's Episcopal Cathedral; Edward McEachern, PacificSource Administrators; Kathy Griesmyer, Office of the Mayor of Boise; Jeffrey Hess, of Hawkins Companies; and a letter signed by Clay Carley, Old Boise; Hethe Clark, Clark Wardle; Bill Connors, Boise Metro Chamber; Jeff Hess, Hawkins Home Group; Jenn Hensley, Downtown Boise Association; Skip Oppenheimer, Oppenheimer Companies; and Sean Evans, Idaho Chamber Alliance.

Kathy Griesmyer testified virtually as the Government Affairs Director for the City of Boise. It was her opinion **H 25** was unnecessary and added a layer of governmental bureaucracy. She stated there were already collaborative efforts between State and City to ensure the safety and security of the Capitol building.

Scott Schoenherr identified as one of the largest property owners in downtown Boise. He emphasized the need for Boise to grow downtown. He asked the Committee to keep Boise vibrant and to vote no on **H 25**.

Clay Carley, part owner of Old Boise, said he worked for 50 years to make Boise its best. He opposed **H 25** taking control of downtown streets and placing them under State control.

Benn Brocksome, ACHD, described a conflict with ACHD and if **H 25** passed, it would create jurisdictional problems. **Senator Lee** asked if the financial obligation rested with ACHD to maintain roadways. **Mr. Brocksome** responded affirmatively and claimed this additional layer of bureaucracy would create more costs. **Senator Bernt** read from the letter submitted by Hawkins Company alluding to this bill being ambiguous, unneeded, without purpose, and unconstitutional. **Mr. Brocksome** agreed and repeated there were jurisdictional concerns regarding the authority to maintain and manage roads that put ACHD in conflict with the State.

Hethe Clark testified virtually. He stressed his testimony represented himself, not his profession as a land use attorney. His concerns included the language of the bill and jurisdictional overlap. He suggested there needed to be an AG opinion on this. **Senator Wintrow** commented some streets, including State Street, were owned by the State and others were not. **Mr. Clark** said that was correct and there were special law restrictions to streets not owned by the State.

Representative Palmer stated he contacted the AG's Office and was told there was no constitutional problem between **H 25** and Article 3. He said the Capitol building was a unique situation. **Senator Ruchti** asked how it was constitutional telling the State Legislature to stay in its lane. **Representative Palmer** believed the legal side was clear to the AG and agreed to provide the Committee something in writing from the AG's office. **Senator Winder** reported this had been an issue since 9/11 at least and he believed it merited discussion. He agreed a firm opinion from the AG's Office was needed before **H 25** advanced to the floor. He added the State should be involved and he would like any constitutional issues resolved..

MOTION: **Senator Winder** moved to hold **H 25** for **call of the chair**. **Senator Lee** seconded the motion. **Senator Winder** will request an opinion of the AG. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Lee** moved to approve the minutes of February 6, 2023. **Senator WINTROW** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Guthrie** adjourned the meeting at 9:21 a.m.

Senator Guthrie
Chair

Joyce Brewer
Secretary