

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Friday, March 03, 2023

TIME: 8:00 A.M.

PLACE: Room WW55

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

**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: **Chairman Guthrie** called the Senate State Affairs Committee (Committee) meeting to order at 8:02 a.m.

RS 30544 **Relating to Fish and Game - Amends Chapter 5, Title 36, Idaho Code. Senator Harris** described Idaho Code § 36-507 to put seasonal restrictions on possession, transportation, and collection of antlers and horns to protect wintering big game. The restrictions did not apply to private landowners on their land. The legislation had little to no fiscal impact on the State's General Fund.

MOTION: **Senator Anthon** moved to send **RS 30544** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

RS 30215 **Relating to Liquor - Amends section 23-948. Brody Aston, Westerberg and Associates,** explained this legislation revised liquor licenses for waterfront resorts and made technical corrections. He defined waterfronts related to lakes, reservoirs, and rivers. The legislation had no fiscal impact to the general fund. He referenced a letter in support from John Evans, Mayor of Garden City (Attachment 1).

MOTION: **Senator Anthon** moved to send **RS 30215** to print. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

RS 30316 **Relating to the Publication of Proceedings by Taxing Entities - Amends Section 31-819, Idaho Code. Senator Schroeder** said this legislation instructed county commissioners to publish notices to the public of all its acts and proceedings, including a brief financial summary of expenditures during the month. The act was not required of counties that maintained a publicly accessible website on which agendas and minutes of meetings were posted. He referenced the appended synopsis by the Ada County Commissioners office (Attachment 2).

MOTION: **Senator Lee** moved to send **RS 30316** to print. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

S 1119 **Legislature - Amends existing law to revise a provision regarding intervention by the Legislature in an action regarding an Idaho statute. Senator Winder** explained the bill allowed the Senate President Pro Tempore (Pro Tem) or the Speaker of the House of Representatives (Speaker), or both, to intervene in state or federal court actions challenging the constitutionality of an Idaho statute. He offered some history on this legislation.

Senator Ruchti emphasized the use of the word or between Pro Tem and Speaker. Constitutionally, he did not think either body could act independently without joint cooperation. He questioned if a leader of one body could act on behalf of both bodies. **Senator Winder** reminded the Committee of discussions held at the previous print hearing. He shared he communicated with the Attorney General's office, which helped with the wording in the bill. He explained there may be different claims or reasons for one body to intervene and not the other. This clarified that either, or both officers, could intervene. **Senator Wintrow** noted this was the second iteration of the bill and she wondered what was different. **Senator Winder** explained the last draft used the word may intervene. The language was reviewed by counsel, who advised that the Pro Tem and/or Speaker needed sole discretion to intervene in a court case. He declared this language was more enabling and specifically told courts that Idaho had the right to intervene. **Senator Wintrow** queried the processes of acting with sole discretion. Did it mean acting without support of the bodies on their behalf? **Senator Winder** declared since the legislature was only in session a few months, there were times cases might arise that required someone to act quickly. He stated intervention was not taken lightly and any questions that arose would be discussed with the Attorney General's office for expertise.

MOTION: **Senator Anthon** moved to send **S 1119** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**. **Senators Wintrow** and **Ruchti** requested to be recorded as voting no.

S 1122 **Terrorist Control Act - Amends existing law to provide for the crime of domestic terrorism.** **Senator Anthon** noted definitions related to the Terrorist Control Act were outlined in Section 18-8102, Idaho Code. He asked the Committee to consider sending **S 1122** to the **14th Order of Business** for possible amendments. He stated this legislation was about due process, definitions of terrorist and domestic terrorists, and penalties imposed. He referenced the Virginia School Board (Board) meeting wherein loud parents protesting what the Board was presenting in schools were labeled by the federal government as domestic terrorists. He said the Attorney General's office would assist in amending any wording in this legislation.

MOTION: **Senator Winder** moved to send **S 1122** to the **14th Order of Business** for possible amendments. **Senator Lee** seconded the motion.

DISCUSSION: **Senator Toews** expressed concern about how the federal government defined terrorist organizations. **Senator Anthon** clarified that courts looked at plain meanings. He wanted to make sure if someone was labeled a terrorist, it meant internationally tied to a specific group, not a parent yelling at a school board meeting. **Senator Wintrow** asked if domestic terrorists could be a group within the state's boundaries that took up arms, had a purpose to take over a public facility, and would not give up without concessions. **Senator Anthon** explained that neither having arms, nor gathering was considered a terrorist act. He repeated that this bill was about due process and proof that what someone was being labeled was accurate. **Senator Winder** recalled a school board meeting a couple of years ago in the East where parents who yelled were labeled terrorist. He believed this legislation would protect the First Amendment right to protest. **Senator Wintrow** asked if Idaho Code § 18-8102 was removed, were other codes in place for the protection of assembly? **Senator Anthon** confirmed and reminded that a person could be trespassed from a public meeting.

The motion carried by **voice vote**.

Elections - Amends and repeals existing law to consolidate presidential primaries with the primary election. **Senator Harris** provided this bill gave a correct code reference and made technical corrections to amend section 34-206, Idaho Code, and consolidated the March presidential primary and the May primary election dates. He stated it cleared up voter fatigue and promoted voter turnout. He yielded to Phil McGrane, Secretary of State, for additional information.

Secretary McGrane explained the task of his office was to address the budget. In 2016 and 2020, the presidential primary election cost the State \$1,945,500 and \$2,067,300, respectively. Considering population growth and inflated costs for elections, the presidential primary election would cost the State \$2,500,000 in 2024. The required presidential primary election audit would cost \$200,000. Passage of this legislation would be a \$2,700,000 savings to the General Fund every four years. He referenced working with both party caucuses to address the date changes to motivate people to get out and vote, and to incentivise candidates to pay attention to Idaho.

Senator Toews said he was inclined to support the bill but curious about the options to let the State's parties weigh in. **Secretary McGrane** said he had conversations in January with the leaders of both parties. A challenge was that by waiting until summer meetings, the Legislature would not meet again before election deadlines for the preparation for the presidential primary. **Senator Winder** asked about a list of candidates who campaigned in Idaho. **Secretary McGrane** admitted he tried informally to keep track. As he recalled, the 2020 cycle was not as competitive as the 2016 cycle.

TESTIMONY:

The following individuals electronically registered in opposition to **H 138**: Nina Beesley, Kirstin Campbell, Daniel Murphy, Phil Reynolds, Dustin Sanders, Todd Sprenger, and Nick Woods. Asa Gray and Bryon Reed electronically registered in favor of **H 138**. Telephone calls registering opposition to **H 138** were taken from Stacy Christiansen, Joseph Decotto, and Herbert Wollerm. Jo Dee Arnold submitted the appended note in favor, and Dorrie Phillips and Eva Selleck submitted the appended notes against **H 138** (Attachment 3).

Kira Turnbow, Executive Director of the Idaho Republican Party, testified on behalf of Chairwoman Dorothy Moon against **H 138**. She said this bill did not allow for party input and the March date should be kept. She denied communication with the Secretary of State's office regarding the dates. She denied having presented this information in the House of Representatives. The party believed this was a violation of its free association. **Senator Winder** recognized over the last 10 years there was a move to dissolve the free association, suggesting a central committee decided who could put a name on a ballot. He stated the issue was who paid for the elections. He said the free association could do whatever it wanted, but the State was not obligated to pay. **Ms. Turnbow** confirmed her group was a free association and argued the party should have a say about when to have a primary because setting the dates was important to getting Idaho on the national stage. By moving the primary date to May, she believed it would create insignificance for Idaho, and voter turn out would be negatively impacted. Some candidates dropped out of races by March 15th, so by May 17th, voters might think their vote would not matter. As a private party, not having consent interfered with its rights. She continued that freedom of association, not the financial aspect was considered to infuse excitement for voter turn out.

Brent Regan, Kootenai County Republican Central Committee, testified against **H 138**. He talked about who participated in primary elections and how money was raised. He eluded to the volunteer staff required to man elections. He submitted the appended Resolution adopted by the Kootenai County Grand Old Party (GOP) (Attachment 4).

Wayne Hurst, Chairman of Region 5, Idaho Republican Party, said he just learned about this issue. He argued all 50 states should be involved in picking a president, not just New Hampshire. He said the primary election allowed all citizens of Idaho to participate and encouraged keeping the primary in March.

Trent Clark, Region 6, Idaho Republican Party, argued logistical reasons for an early primary to get Idaho recognized. He claimed it was hard to compete with the national events and difficult to get delegates approved and the necessary security clearances 90 days before an election.

Mark Johnson, Region 4, Idaho Republican Party, said he served 145,000 Republicans and was all about saving money. He felt the government should fund elections in order to see presidential candidates in Idaho. He was opposed to **H 138**.

Rod Beck wanted the presidential primary in March and to repeal the caucus. He stated if the Legislature did not do something, no candidates would show up for caucuses.

Saul Seyler, Ada County Clerk, Elections Division, supported **H 138**. He said it cost one million dollars to run an election in Ada County. He explained the logistical challenges of elections 70 days apart. Preparation for elections required 100 days, 1,200 pole workers had to be recruited and trained, and thousands of machines had to be programmed. Tight time frames made it hard to assure election integrity.

Maria Nate, State GOP Secretary, said caucuses started in 2012. She talked about candidates and/or family members who campaigned in Idaho and heard Idaho's concerns. She felt to change the primary without party input was wrong. She stated she had not testified in the House of Representatives because it went across the House floor quickly. **Senator Winder** asked about a move to a central party. **Ms. Nate** stated that was not the subject of this bill. She stated Republicans should elect Republicans and the executive committee could not move on a dime. **Senator Winder** noted the party was asking the State and its taxpayers to pay for the primary. If the party wanted to pay for the primary, it could be held at the party's choosing. He felt it was a legitimate question to ask who should pay for the primary. **Ms. Nate** confirmed there were discussion with the Secretary of State's office, but the party had not been able to talk with the bill sponsor. She reported she only heard of this bill in February, after the winter meeting of the party. She repeated there was little communication with the Secretary of State's office and none with this body.

Cal Habayeb opposed **H 138** because presidential elections only occurred every four years. He did not think it was hard to get people to vote in those elections. He felt this was an opportunity to get Idaho on the national stage and for people to pay attention to Idaho's conservative voice. He said elections in May might stifle Idaho's voice.

Senator Schroeder expressed support for **H 138**. He recalled the controversy years ago in picking up a two million dollars tab for elections. If the State acquiesced to the party, the party could fund raise and pay the bill.

Stephen Bender, Treasurer of the Idaho Republican Party, said he was speaking for himself, not the party. He opposed **H 138** because if the primary was in May, many candidates were already out of the race. He said he did not support caucuses because it was career politicians making decisions instead of voters making decisions. He felt the money was well spent by the State for primary elections.

Ryan Davidson supported the March presidential primary. He said the goal of a caucus was to make Idaho relevant in the presidential election cycle. He supported the caucus as the best route to candidates. He believed it was a logistical burden to have 44 separate caucuses in Idaho.

Senator Harris concluded that this legislation was an effort to consolidate elections and save money while encouraging voter participation.

MOTION: **Senator Lee** moved to send **H 138** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

DISCUSSION: **Senator Toews** saw the value of lowering costs to the taxpayers and increasing voter turn out. He was not convinced **H 138** did either. He said he believed in making the right decision through the right process and he questioned this process. He indicated he would oppose the bill. **Senator Ruchti** expressed support for the motion. He said we had to expend money to support political parties to bring people into the process for a functioning democracy. His concern for several years was that parties had internal struggles and presumed efforts to exclude and only have one portion of the party run things. A private organization could not do that. He said the question was whether the State had the obligation to pay and to what extent. At what point did the State say it was not doing more? **Senator Winder** stated the party had a right to establish whatever it wanted and to set its rules. That did not mean the public had an obligation to pay for a private party. If the State was involved to pay for elections, the State should have more say. If the party paid, it could select any date it wanted.

VOICE VOTE: The motion carried by **voice vote**. **Senator Toews** and **Anthon** requested to be recorded as voting no.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:40 a.m.

Senator Guthrie
Chair

Joyce Brewer
Secretary