MINUTES

SENATE JUDICIARY & RULES COMMITTEE

DATE:	Monday, March 17, 2025
TIME:	1:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, 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 Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:00 p.m.
MINUTES APPROVAL:	**Senator Foreman** moved to approve the Minutes of February 10, 2025. **Senator Ricks** seconded the motion. The motion carried by **voice vote.**
RS 32622C1	**RELATING TO LEGISLATIVE RULES APPROVAL by the Senate Resources and Environment Committee with exceptions.**
RS 32623	**RELATING TO LEGISLATIVE RULES NOT APPROVED by the Senate Resources and Environment Committee.**
MOTION:	**Senator Ricks** moved to send **RS 32622C1** and **RS 32623** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote.**
H 270	**INDECENT EXPOSURE - Amends existing law to revise provisions regarding indecent exposure. Representative Cornilles, Representative Tanner** and Nampa City Councilman,**Sebastian Griffin** presented **H 270. Representative Cornilles,** stated that **H 270** amended Idaho Code § 19-4116 to update and clarify definitions related to willful and lewd indecent exposure. The current law prohibited individuals from willfully or lewdly exposing their genitals in public where others may be offended. The bill modernized the language to include both male and female breasts that had been medically or otherwise altered to resemble developed or developing female breasts. It reinforced the requirement for individuals to cover up in public. **Representative Cornilles** deferred to Representative Tanner. **Representative Tanner** added that the focus of Idaho Code § 19-4116 had been on willful and lewd behavior that offended a person, and under the law, individuals could not be guilty of a criminal offense unless those conditions were met. Since 2003, the statute had been used at least 12 times to convict individuals of indecent exposure, indicating that the definitions of willful and lewd behavior were well understood by Idaho courts. The intent was not to target any specific group, nor did it prohibit pride events. Instead, the goal was to address specific behaviors and provide law enforcement with a clear legal foundation at public events. When the Nampa Pride event occurred in 2023, law enforcement was uncertain about how to enforce the law, and the amendment was intended to provide clearer guidelines. **Councilman Griffin** stated that **H 270** modernized Idaho's existing code to address a loophole that had been exploited by bad actors. He stated that issues with the law became apparent, updates were necessary to ensure its effectiveness. He spoke of a public event in Lakeview Park, law enforcement was present to monitor the situation. During the event, several individuals were seen topless. When questioned, a local officer explained that what these individuals were doing was

not illegal under the current law. While public nudity was generally prohibited for women, the individuals in question had undergone breast augmentation to appear as female but identified as male. **Councilman Griffin** said the amendment was introduced to close that legal gap. Local law enforcement stated that the change would assist them in addressing situations where individuals exposed themselves in a manner that offended others, particularly when their breasts had been hormonally or surgically altered. The existing law did not account for this distinction. Additionally, the term "annoyed" was removed from the statute. The legal precedent for such regulations had been well established by the Supreme Court in *Barnes v. Glen Theatre, Inc.* (1991), which applied the O'Brien test to determine constitutional validity. The ruling confirmed that if a law met specific elements, the government had the constitutional authority to enforce it. Furthermore, *City of Erie v. PAP'S A.M.* (2000) reaffirmed the Barnes decision, reinforcing the government's interest in restricting public nudity in certain spaces, such as parks.

DISCUSSION: **Senator Ruchti** raised concerns about unintended consequences of the bill's language, particularly its extension to private locations and businesses. The original statute covered exposure in public or where someone was offended, but new language included displaying toys or products resembling genitals. Questions arose about whether this could apply to sex toy shops or private sales, such as multi-level marketing events in homes. The concern was that law enforcement would have broad discretion, potentially bringing private, consensual situations under indecent exposure laws if just one person took offense. **Councilman Griffin** responded that the legislation was drafted to address current issues, including instances where sex toys had been distributed at public events. The code was updated to reflect modern concerns, with input from law enforcement and prosecutors.

TESTIMONY: **Nikson Mathews,** Idaho Queer Caucus, testified in opposition to **H 270.** He warned the bill criminalized gender expression, noting a cisgender man and transgender man with identical chests could face unequal legal risks.

Rachel Pierce, expressed strong opposition to the bill. She criticized the way the legislation conflated breasts with genitalia, arguing that the comparison was both inaccurate and problematic. She also raised concerns about the vague language used in the bill, which she believed could lead to the unfair policing of marginalized groups.

Edward Clark, Idaho Family Policy Center testified in support of **H 270.** He argued it prevented "instantaneous and irreparable" harm to children exposed to lewd conduct. He stressed the liability hinged on intentional behavior, not incidental exposure.

Jessica Evett strongly opposed **H 270,** describing it as deeply flawed and dangerous. As a cisgender woman, she believed the bill set a troubling precedent and unfairly demonized specific groups. She raised concerns about the potential for false accusations of indecent exposure, which could lead to unjust outcomes.

Randy Jackson, Canyon County resident testified in support of **H 270.** He emphasized that the issue was not about a person's sexual orientation but about public nudity in spaces where children were present. He stated that he did not believe nudity belonged in public parks. **Mr. Jackson** recounted an experience at a park in Nampa where both women and men with enhanced breasts resembling female breasts were topless in the presence of children. He argued that public nudity was not meant to be allowed and expressed concern about individuals deliberately exposing themselves in front of minors.

DISCUSSION: **Councilman Griffin** concluded that the bill's primary focus was on behavior that was lewd in an obvious and offensive sexual manner. He emphasized that the legislation targeted individuals exploiting loopholes in the current code to expose themselves in public. He also noted that the bill allowed for warnings before any felony charges could be applied. An individual would have to willfully and lewdly violate the code three or four times before reaching that threshold, providing multiple opportunities to correct their behavior.

MOTION: **Senator Lenney** moved to send **H 270** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION: **Senator Wintrow** expressed several concerns about the bill. She referenced a 2021 article about women sunbathing at a lake, where people debated whether it was lewd, noting that no law specifically addressed the issue. She feared that the bill would lead to the policing of women's bodies, as it allowed men to expose their chests but not women. She also raised concerns that both cisgender and transgender women would now be subject to scrutiny, questioning whether their breasts were "real" or not. **Senator Wintrow** pointed out that the bill relied heavily on individual interpretation, which could lead to inconsistent enforcement. While she acknowledged that disturbing the peace laws could apply, she argued that they needed to be more specific to avoid unfair or subjective policing.

Senator Shippy opposed the bill, stating that his concerns were rooted in philosophical beliefs. He asserted that there were only men and women and did not view transgender identities as a true reality. He believed it was philosophically incorrect to equate a man dressing as a woman with indecent exposure and argued that it would be wrong for the state to enshrine such a concept in Idaho law. While he acknowledged that there were issues that needed to be addressed, he felt the bill was disrespectful to women. Due to these concerns, he stated that he could not support the legislation.

VOICE VOTE: The motion to send **H 270** to the floor with a **do pass** recommendation passed by **voice vote. Senator Shippy, Ruchti and Wintrow** requested to be recorded as voting nay.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Shippy.

H 271 **ADVERTISING ILLEGAL PRODUCTS AND SERVICES - Amends and adds to existing law to prohibit the advertising of illegal products and services and to provide for the apportionment of certain fines. Senator Lakey** introduced **H 271** as a straightforward bill making it a misdemeanor to commercially advertise illegal products in Idaho. He referenced Article 3, Section 24 of the Idaho Constitution and emphasized that the bill aimed to stop businesses from states like Oregon, Washington, and California from profiting by advertising illegal products in Idaho. He stated that Idaho was a state of laws and morality. He cited an analysis by the Idaho Family Policy Center, which found that both the U.S. Supreme Court and the Idaho Supreme Court have ruled that commercial speech promoting illegal activity was not constitutionally protected like other forms of speech. The bill's key principle was that advertising must align with Idaho law—if a product was illegal in Idaho, it could not be advertised there, regardless of where it was made.

DISCUSSION: **Senator Lenney, Keyser, Wintrow and Ruchti** raised concerns about the challenges of enforcing the bill and its potential unintended consequences. They questioned whether federal bans on certain products could inadvertently criminalize activities within Idaho. A key issue discussed was whether organizations like Planned Parenthood, which in Idaho offers reproductive health care, family planning, cancer screenings, mammograms and other services could still advertise in Idaho, given that abortion was illegal in the State. Would advertisements about services legally available in other states but not in Idaho fall under the bill's restrictions.

Senator Lakey acknowledged the enforcement challenges and agreed to potential amendments that would narrow the bill's scope to products illegal under both federal and Idaho law. He clarified that enforcement efforts would primarily target "willful" publishers rather than individual social media users, recognizing the State's limited resources for prosecuting misdemeanors.

TESTIMONY: **Sheriff Andy Creech,** representing the Idaho Sheriffs Association, testified in support of **H 271.** He highlighted the impact of marijuana dispensaries in Ontario, Oregon, just across the Idaho border, stating that they had contributed to a rise in violent crime in his jurisdiction. He cited a recent carjacking case that began in Oregon and spilled into Idaho, emphasizing the need to curb cross-border criminal influence. **Sheriff Creech** stressed that activities in Ontario, Oregon were directly affecting his county and its residents, reinforcing the importance of the bill.

Rex Ingram, President of the Idaho Chiefs of Police Association testified in support of **H 271,** emphasizing the need for Idaho to uphold its reputation for "family values" and the rule of law. He criticized out-of-state advertisements that targeted Idaho residents, arguing that they undermined the State's legal standards. He also shared his personal frustration over having to explain marijuana-related billboards to his children, reinforcing his belief that such advertising should not be allowed in Idaho.

MOTION: **Senator Foreman** moved to send **H 271** to the floor with a **do pass** recommendation. **Senator Lent** seconded the motion.

SUBSTITUTE MOTION: **Senator Keyser** moved to hold **H 271** in Committee, subject to the Call of the Chair. **Senator Ruchti** seconded the motion.

DISCUSSION: **Senator Lenney** supported the substitute motion, arguing that the bill's broad language could lead to unintended consequences, particularly for firearm-related advertising. He expressed concern that the bill, as written, conflicted with Idaho's values of limited government. Instead, he advocated for a narrower version that would explicitly target marijuana advertising while avoiding restrictions on other industries.

Senator Foreman emphasized the real-world impact of illegal drugs entering Idaho, arguing that immediate action was necessary. He contended that it was better to move forward with the legislation rather than keep it stalled in Committee without addressing the issue. He stressed the importance of drawing a clear line against illegal drugs and reinforcing Idaho's stance through decisive action.

ROLL CALL VOTE: **Vice Chairman Shippy** called for a roll call vote on the substitute motion. **Senators Lenney, Keyser, Wintrow and Ruchti** voted aye. **Senators Ricks, Foreman, Lent, Vice Chairman Shippy and Chairman Lakey** voted nay. The motion failed.

ROLL CALL VOTE: **Vice Chairman Shippy** called for a roll call vote on the original motion. **Senators Ricks, Foreman, Lent, Vice Chairman Shippy and Chairman Lakey** voted aye. **Senators Lenney, Keyser, Wintrow and Ruchti** voted nay. The motion carried.

PASSED THE GAVEL:	Vice Chairman Shippy passed the gavel to Chairman Lakey.
RS 32674	**RELATING TO VIRTUAL PUBLIC SCHOOLS - Being Authorized by the State Charter School Commission instead of Individual School Districts.**
NOTE:	**Chairman Lakey** noted due to time constraints the presentation of **RS 32674** would not be presented.
MOTION:	**Senator Ricks** motioned to send **RS 32674** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote.**
ADJOURNED:	There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:15 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Joe Engstrom
Minority Staff Assistant

Melissa Price
Assistant Secretary