

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Friday, March 01, 2024

**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 meeting of the Senate State Affairs Committee (Committee) to order at 8:00 a.m.

**WELCOME:** **Chairman Guthrie** welcomed all to the Committee meeting.

**MINUTES APPROVAL:** **Senator Wintrow** moved to approve the Minutes of February 16, 2024. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Senator Winder** moved to approve the Minutes of February 21, 2024. **Senator Toews** seconded the motion. The motion carried by **voice vote**.

**RS 31523C1:** **Relating to Pharmacy Benefit Managers. Senator Lee** stated that **RS 31523C1** established parameters and standards for how Pharmacy Benefit Managers operated in Idaho. She remarked that **RS 31523C1** added new definitions and helped protect access to pharmacies and health care dollars.

**MOTION:** **Senator Harris** moved to send **RS 31523C1** to print. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

**SJR 105:** **SCHOOL ATTENDANCE - Proposes an amendment to the State Constitution to include private and home schooling in the compulsory attendance provision. Senator Herndon** presented **SJR 105** with a proposed amendment to Section 9, Article 9 of the State Constitution. He remarked that the language in the State Constitution regarding compulsory attendance at school stated that it "may require by law," which meant it was not a requirement, but an option. He stated that **SJR 105** amended Idaho Code § 33-202, and closely mirrored the statute. He stated that **SJR 105** gave a right to custodial parents and guardians to privately educate their children without government regulation.

**Senator Herndon** remarked that **SJR 105** ensured that custodial parents and guardians would not be regulated by the government as far as what they taught, how they taught, or how many hours they taught. He stated that private education meant that families did not receive any public funding for education such as taxpayer funding, grant opportunities, or scholarships. He remarked that **SJR 105** addressed changed an implied right, which could be interpreted differently over time, to an explicit right.

Senator Herndon outlined the timeline of related statutes in Attachment 2.

**DISCUSSION:** **Senator Ruchti** stated his concern was that families who chose private education should not receive public funds to do so. He asked what language in **SJR 105** prevented the use of funds for that purpose. **Senator Herndon** responded that every stakeholder agreed that those who participated in private education should not receive public funding. He stated that **SJR 105** made no changes to funding.

**Senator Wintrow** expressed concern about a change to the State Constitution. She asked about public money going to private education and vouchers. **Senator Herndon** responded that the private education language ensured no taxpayer funding. **Senator Wintrow** responded that if private education was not explicitly stated, then it would be left up to interpretation and could receive voucher money. She was not comfortable with it not being explicitly stated.

**Senator Lee** asked why the language "no taxpayer dollars should be or are required" was not contained in the amendment. **Senator Herndon** responded that the language was considered, but when he discussed **SJR 105** with stakeholders, they were concerned that the language would confuse voters. He remarked that it was clear that private was in contrast with public and didn't need additional language. **Senator Lee** stated that the language was not clear and asked for consideration to add a line stating that no tax payer dollars were used. **Senator Herndon** stated that he was open to having that language added on the floor in the amending order.

**Senator Ruchti** commented that he was concerned that **SJR 105** was confusing to voters and could be seen as exploiting confusion in order to pass an amendment. **Senator Herndon** responded that he was willing to send it to the amending order to remove any confusion.

**Senator Wintrow** asked which stakeholders were involved. **Senator Herndon** responded that he met with the House and Senate Education Committee chairmen, homeschool groups, and private schools within the State. **Senator Wintrow** asked why there was a need to amend the State constitution if **SJR 105** wasn't going to change anything that wasn't already happening in Idaho. **Senator Herndon** responded that it made homeschooling freedom an explicit right instead of an implied right when it was added to the State Constitution.

**TESTIMONY:** **Barry Peters**, board of legal advisors, Homeschool Idaho, testified in support of **SJR 105**. **Mr. Peters** believed that this bill would enshrine the rights and autonomy of families that chose to homeschool or send their children to private schools similarly to the rights afforded to those in the public school system. He referenced the history of statutes that led to **SJR 105** and requested that the committee send it to the floor with a do pass recommendation.

**DISCUSSION:** **Senator Winder** asked Mr. Peters if it was beneficial for the committee to add a section relating to the definition of public versus private in terms of funding. **Mr. Peters** replied that he was not adverse to clarifying.

**Senator Ruchti** asked what additional protections a constitutional amendment gave to homeschoolers. **Mr. Peters** responded that if the federal right was taken away, then the right remained the principle in Idaho. **Senator Ruchti** addressed a concern shared by Senator Lee about the language currently used in the bill and offered a possible solution. **Mr. Peters** responded that he would prefer to keep the bill concise and offered different language.

**TESTIMONY:** **Melissa Nash**, Homeschool Idaho, testified in support of **SJR 105**. **Ms. Nash** noted that a historically clear distinction between public schools, private schools, and homeschooling was obfuscated and lumped together by many. She believed that this amendment helped clarify the distinction between different types of education.

**Trisha Gronenthal** testified in opposition to **SJR 105**. **Ms. Gronenthal** believed that funds should follow the student regardless of educational choice. She noted that as a homeschooler, she did not receive the benefits of the tax that she paid to the State for education.

**Quinn Perry**, Deputy Director, Idaho School Boards Association, testified in opposition to **SJR 105**. **Ms. Perry** stated that she was concerned that the language stating that home or private schools shall be free from government regulation had repercussions relating to birth certificates and fire safety codes, which were required for private schools. She believed that the language in **SJR 105** should provide clarity since spending received no government oversight.

Written testimony regarding **SJR 105** appears in Attachment 1.

**DISCUSSION:** **Senator Toews** asked for clarification on how **SJR 105** applied to building codes. **Ms. Perry** responded with a couple of possible examples relating to the question. She noted that because the resolution was a constitutional amendment, it would have implications in the future. **Senator Toews** responded that he believed that it did not affect building codes or similar situations.

**Senator Herndon** explained that regulations related to commerce were still in effect under **SJR 105**. He remarked that he agreed with Mr. Peters regarding the amendment, shared concerns with Senator Ruchti's recommendation, and offered a previous revision that stakeholders felt was redundant. **Senator Harris** commented that given the confusion, the legislation should be rewritten rather than just amended and asked Senator Herndon his thoughts. **Senator Herndon** responded yes, if that was what the committee decided.

**MOTION:** **Senator Lee** moved that **SJR 105** be held in committee subject to the call of Chair. **Senator Ruchti** seconded the motion.

**DISCUSSION:** **Senator Lee** commented that when a constitutional amendment was brought before the committee with questions related to language, that the committee needed to get it right. She remarked that she supported the fundamental right of homeschooling, but that the amendment needed work, and the amending order was not the place to fix **SJR 105**

**SUBSTITUTE MOTION:** **Senator Toews** made a substitute motion to send **SCR 105** to the 14th Order of Business for possible amendment. **Senator Anthon**, seconded the motion.

**DISCUSSION:** **Senator Ruchti** commented on other possible examples where the language of **SJR 105** created trouble in possible legislation for private schools. He was concerned that **SJR 105** would require strict scrutiny from Idaho courts.

**Senator Toews** thanked the sponsor for his willingness to amend the resolution. He noted that at any point, the Legislature could change its view on homeschooling and believed that this legislation eased that fear.

**Senator Winder** pointed to rules relating to the time frame when constitutional amendments must be introduced and passed to the other house of the Legislature.

**ROLL CALL VOTE:** **Senator Toews** called for a roll call vote on the substitute motion. **Chairman Guthrie, Vice Chairman Bernt, and Senators Winder, Anthon, and Toews** voted aye. **Senators Harris, Lee, Wintrow, and Ruchti** voted nay. The motion carried.

**S 1376**

**Senator Okuniewicz** presented **S 1376**. He explained that current law prohibited an employee of any State agency from advocating for or against an initiative or referendum. He remarked that **S 1376** exempted the legislative branch from this prohibition. He stated that advocating for or against laws was what legislators did. **Senator Okuniewicz** addressed the fiscal impact and stated that there was a minimal cost for letterhead. He remarked that the allotment for postage and letterhead for legislators would not change under this legislation.

**DISCUSSION:**

**Senator Lee** expressed concern about the use of the word "acting" rather than "elected" on line 23. She remarked that an acting legislator had a different interest than an elected legislator. **Senator Okuniewicz** responded that other statutes addressed the authority of acting legislators. He indicated that he would be open to amending that language.

**Senator Wintrow** asked what made legislators different from other elected officials who were not able to advocate. **Senator Okuniewicz** replied that, unlike other elected officials, advocating for or against legislation was the specific job of a legislator.

**Senator Ruchti** asked what the justification was for the distinction between advocating for a referendum or initiative and advocating for a ballot measure. **Senator Okuniewicz** answered that the term "ballot measure" included referenda and initiatives.

**Senator Wintrow** asked Senator Bernt to explain his desire to send **S 1376** to the 14th order. **Senator Bernt** explained that he was concerned about the use of the term "acting" rather than "elected."

**Senator Winder** expressed support for **S 1376**.

**Senator Wintrow** stated that she supported **S 1376**, but noted that other elected officials such as school board members also advocated for or against laws or issues.

Written testimony regarding **S 1376** appears in Attachment 1.

**MOTION:**

**Senator Bernt** moved to send **S 1376** to the **14th Order of Business** for possible amendment. **Senator Toews** seconded the motion. The motion carried by **voice vote**.

**S 1377**

**Senator Okuniewicz** presented **S 1377**. He stated that **S 1377** addressed paid signature gathering for initiatives and referenda. He outlined that it required that a paid signature gatherer notify a person signing that he or she was paid. Secondly, it required that each page of the petition included a prominently displayed notice that the signature gatherer was paid. Finally, **S 1377** provided that a signature gatherer wore a badge that indicated they were paid.

**DISCUSSION:**

**Senator Wintrow** expressed concern regarding the provision in section eight on page three that any petition for an initiative or referendum on which signatures were obtained in violation of these provisions was void. How would one know and why punish the person who signed the petition in good faith? **Senator Okuniewicz** responded that there were already statutory requirements for gathering signatures such as age and residency requirements.

**Senator Ruchti** sought clarification as to whether, if the signature gatherer failed to notify one signer on a sheet of 20 signatures, the entire page was void. **Senator Okuniewicz** confirmed that was correct.

**TESTIMONY:** **Mary Ruckh** testified in opposition to **S 1377**. She had gathered signatures for causes she believed in and was concerned this bill created further obstacles in the initiative and referendum process. She did not see a distinction between a paid signature gatherer and a volunteer.

**Ryan McGoldrick** spoke on behalf of the Conservation Voters of Idaho. He argued that a clerk could verify names and addresses on a petition, but it would be difficult for a clerk to verify whether the signature gatherer had properly disclosed that he or she was paid or remained in compliance with the other provisions of this bill.

**Gwen McElhenney** spoke in opposition to **S 1377**, stating that it restricted the exercise of the constitutional right to participate in the initiative process.

**Senator Okuniewicz** addressed several of the comments made. He remarked that the Secretary of State would be responsible for enforcement issues. He remarked that, regarding Senator Ruchti's question relative to the distinction between paying someone to gather signatures for an initiative or referendum and paying campaign staff, campaign finance laws addressed the latter.

Written testimony regarding **S 1377** appears in Attachment 1.

A letter in opposition to **S 1377** from the ACLU appears in Attachment 3.

**MOTION:** **Senator Harris** moved to send **S 1377** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion passed by **voice vote**. **Senator Ruchti** and **Senator Wintrow** asked to be recorded as voting nay.

**H 456** **Representative Scott** presented **H 456**. She explained that the legislature passed a bill last session which gave the State Comptroller the authority to store, maintain, and publish a list on their website of agreements, such as MOUs and MOAs, that the State entered into along with digital copies of those agreements. She remarked that the requirement to include a digital copy of all agreements consumed a lot of time and effort by the Comptroller's office in redacting and copying the documents. She stated that **H 456** removed the requirement to include a digital copy of all agreements, and in addition, it gave the State Comptroller the authority to develop policy to carry out the requirements under Idaho Code § 67-1085.

**DISCUSSION:** **Senator Winder** asked whether it was acceptable to replace the word "report" on line 11 with "list." **Representative Scott** explained that term "report" was used because State agencies provided reports of every expenditure. The State Comptroller then compiled the list.

**TESTIMONY:** **Joshua Whitworth**, Chief Deputy, State Comptroller's office, testified in support of **H 456**. He stated that **H 456** clarified that the State Comptroller's office was only required to keep a list of agreements entered into by State agencies. He remarked that not requiring a digital copy of all agreements would save the office much time in redacting and copying the agreements.

**DISCUSSION:** **Senator Toews** inquired whether someone could still request a copy of an agreement. **Mr. Whitworth** replied that, yes, someone could request a copy.

**MOTION:** **Senator Winder** moved to send **H 456** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion. The motion passed by **voice vote**.

- H 618** **Representative Scott** presented **H 618**. She explained that this bill followed up on legislation enacted last session that prohibited the inclusion of an elected official's name or electioneering messages on State warrants (Attachment 4). **H 618** further defined electioneering messages to include, "statements regarding, expressing support for, or soliciting support for any: (a) governmental program or initiative; or (b) non-profit corporation...." Representative Scott cited as an example a check she received that contained a message about a non-profit organization that was not registered with the Secretary of State, had no website, and had a non-existent phone number (Attachment 4). She remarked that **H 618** still permitted a remittance memo indicating the purpose of the warrant.
- TESTIMONY:** **Joshua Whitworth**, Chief Deputy, State Comptroller's office, testified in favor of **H 618**. The State Controller's Office supported removing marketing messages from state warrants to ensure confidence in the State Comptroller's office.
- MOTION:** **Senator Harris** moved to send **H 618** to the floor with a **do pass** recommendation. **Senator Toews** seconded the motion. The motion passed by **voice vote**.
- H 487** **Representative Clow** presented **H 487**. He explained that this legislation addressed the situation where there were existing agreements between public utilities and potential developments, and the utility changed ownership. He remarked **H 487** provided that in such a situation the new owner of the utility was required to honor any existing agreement unless: "(a) the agreement had expired, (b) more than five years has passed since the purchase, acquisition, combination, or merger; or (c) the parties mutually agree to change or terminate the agreement."
- DISCUSSION:** **Senator Anthon** asked Representative Clow to clarify whether, in a situation where the utility and potential development had an agreement that was ten years-old, a new owner of a utility could void the agreement. **Representative Clow** responded that the utility could change the agreement, though the plan might not change.
- MOTION:** **Senator Bernt** moved to send **H 487** to the floor with a **do pass** recommendation. The motion passed by **voice vote**.
- RS 31539** **Relating to Education.** **Senator Winder** presented **RS 31539** as an amendment to the Idaho Launch Grant Program legislation. He remarked that the revision established additional criteria for in-demand careers and defined what in-demand careers were.
- MOTION:** **Senator Anthon** moved to send **RS 31539** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.
- RS 31461C1** **Relating to Public Charter Schools.** **Senator Winder** presented **RS 31461C1** and stated that this legislation restored public charter school facility funds. He remarked that the funding was unintentionally reduced when H 292 was passed in 2023. He stated that **RS 31461C1** did not increase any funding for public charter schools, but simply restored it to the previous level.
- MOTION:** **Senator Harris** moved to send **RS 31461C1** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.
- RS 31573** **Relating to Public Charter Schools.** **Senator Winder** presented **RS 31573** and stated that this legislation was similar to **RS 31461C1**. He remarked that **RS 31573** related to public charter school funds affected by H 292, which passed in 2023.
- MOTION:** **Senator Lee** moved to send **RS 31573** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**RS 31329**      **Relating to Waste Tires.** **Senator Harris** presented **RS 31329** and stated that this legislation related to the establishment of a new waste tire recycling fund. He remarked that **RS 31329** addressed abandoned waste tire piles throughout the State. He stated that **RS 31329** assisted with reimbursement of transportation costs of recycled waste tires.

**MOTION:**      **Senator Lee** moved to send **RS 31573** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**RS 31549**      **Relating to Voting Machines.** **Senator Bernt** presented **RS 31549** and stated that this legislation prohibited voting systems from being able to connect to the internet. He remarked that **RS 31549** made tampering with the voting system a felony. He stated that the Secretary of State and clerks were given the authority to handle election equipment.

**MOTION:**      **Senator Toews** moved to send **RS 31549** to print. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**      There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:54 a.m.

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Senator Guthrie  
Chair

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Peggy Caraway  
Secretary

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Meg Lawless  
Secretary

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Madison Schrader  
Assistant Secretary

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Griffin Zue  
Assistant Secretary