

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Wednesday, February 20, 2019

**TIME:** 8:00 A.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, Stennett, and Buckner-Webb

**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:** **Vice Chairman Harris** called the Senate State Affairs Committee (Committee) meeting to order at 8:00 a.m.

**COMMITTEE PAGE:** **Katie Angell**, Committee page, introduced herself and discussed her background. She is from Rexburg, Idaho, and loves everything about the outdoors. She was a cheerleader and sits on the National Honor Society Board. **Ms. Angell** said she finished classes early and will be attending Brigham Young University - Idaho in April. She told the Committee her future plans..

**VOTE ON GUBERNATORIAL APPOINTMENTS:** **The Gubernatorial Appointment** of Travis "Bear" Prairie to the Idaho Energy Resources Authority.  
**The Gubernatorial Re-Appointment** of Eric Anderson to the Public Utilities Commission.

**MOTION:** **Senator Vick** moved to send the Gubernatorial appointment of Travis "Bear" Prairie to the Idaho Energy Resources Authority to the floor with recommendation that he be confirmed by the Senate. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**MOTION:** **Senator Vick** moved to send the Gubernatorial re-appointment of Eric Anderson to the Public Utilities Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL RE-APPOINTMENT:** **The Gubernatorial Re-Appointment** of Janet Gallimore as the State Historical Preservation Officer and an overview of the Idaho State Historical Society.  
**Ms. Gallimore** represented her background and credentials to the Committee. The State Historical Preservation Office (Preservation Office) is a branch of the Idaho State Historical Society, and was established as an agency of the state in 1907. Her credentials include: 1.) Serving under Governor Otter for three terms as the State Historic Preservation Officer; 2.) Over 30 years of experience in the area of cultural resource management and administration; 3.) Administration of museums, archives, historic sites and historic resources; 4.) Education includes an M.S. in Business from the National Louis University in Evanston, Illinois, and a B.A. in Business and Fine Arts from Berik College; 5) Held many positions on national boards including: the Board of the National Conference State Historic Preservation Officers, a peer reviewer for the American Alliance of Museums and its accreditation program, and the Board of American Association for State and Local History. She also stated she is a member of the International Women's Forum in Idaho. **Ms. Gallimore** explained in detail her duties as the Preservation Officer and provided an overview about what is happening

at the Idaho State Historical Society, touching on the remodeling of the Idaho State Historical Museum (Museum).

**Senator Hill** stated that Ms. Gallimore was instrumental in the remodeling of the Museum, and inquired about the attendance and responses since the Museum was reopened. **Ms. Gallimore** stated she was happy to report close to 20,000 people have visited the Museum since it opened. **Senator Hill** stated that no one else could have handled it with more enthusiasm or dedication and stated his appreciation for her service.

**Chairwoman Lodge** asked Ms. Gallimore if she could give an update on the Bear River Landmark Museum. **Ms. Gallimore** gave a brief history of the site, as well as their intentions with the cultural center.

**Chairwoman Lodge** stated that the Committee will vote on the Gubernatorial appointment at a future date.

**RS 26905**

**UNANIMOUS CONSENT REQUEST** from the Senate Transportation Committee to amend violations for failure to yield to a school bus.

**Senator Winder** said **RS 26905** concerns the safety of school buses. The increasing number of cars violating the law by passing a bus when it is stopped has caused an increase in fatalities around the country over the last 12 months. **RS 26905** will raise the fine amount to a point which will get drivers' attention and be a deterrent.

**MOTION:**

**Senator Hill** moved to send **RS 26905** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**RS 26911**

**A JOINT MEMORIAL** to urge Congress to encourage President Trump's administration to renew certain waivers on steel.

**Senator Winder** stated the memorial has been proposed by the Pacific Northwest Economic Region (PNWER). He explained to the Committee that PNWER is made up of four Northwest states, Alaska and three Western Provinces of Canada, and two territories of Canada. He explained the purpose of **RS 26911** is to encourage Congress to move expeditiously and approve new trade agreements with Canada and Mexico, with an end goal of stabilizing trade. He further stated PNWER imports and exports from the United States, Canada, and Mexico and the tariffs have had an impact on Idaho's agricultural community.

**Senator Anthon** asked why Mexico is the third largest market and asked about the benefits we share with Mexico. **Senator Winder** replied the RS was drafted to mostly emphasize the Northwest area and not necessarily Mexico. The drafters felt that it was important to include Mexico; it is a big trading partner with the U.S.

**MOTION:**

**Senator Anthon** moved to send **RS 26911** to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**RS 26910**

**RELATING TO UNCLAIMED PROPERTY** for certain non-profit corporations related to cooperatives providing electric power, telecommunications, and broadband services to elect to participate in the State's unclaimed property laws as they choose.

**Will Hart**, Executive Director and Legislative Advisor of the Idaho Consumer-Owned Utilities Association, explained what they do as an organization. He asked the Committee to print **RS 26910** regarding small rural member owned utilities. This RS asks for flexibility in how to use funds.

**Senator Souza** raised concerns about the methodology of the RS. She agreed keeping funds on the books for only two years is not enough time. She also raised concerns because the funds are not the property of the utility, but belong to the member and those members have not been found. Going to the utility directly might not be proper. She also stated her opinion about dispersal of funds. **Mr. Hart** appreciated her input and stated he will discuss it further with Senator Souza.

**MOTION:**

**Senator Anthon** moved to send **RS 26910** to print. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

**S 1076**

**RELATING TO LIQUOR STORES** to authorize sample tasting of liquor in certain instances.

**Kate Haas**, Kestrel West, representing the Distilled Spirits Council (Council), stated **S 1076** allows for sampling at liquor stores. She said the bill allows for both administration and proper enforcement, and provides for limited sampling within liquor stores. She stated the Director of the Liquor Division has to approve any sampling before it occurs, the methodology of the sampling, and what was being sampled. She stated the suppliers' representative would be the one handling all alcohol and doing any sample pouring. She also explained that any sampling would have to be in a clearly identified and designated roped off area that would allow the sample handler to see who is coming in and out and only allow a certain number of customers within the area. The sample taster will have to stay in the designated area and everyone involved must be age 21 and older. The sample size is restricted to a total of three quarter ounce samples of product per 24-hour period. She stated other states have had smaller sample sizes, but the Council felt it was appropriate for Idaho. She lastly explained that the Council feels it will be able to prosecute suppliers if they serve more than three samples.

**DISCUSSION:**

**Senator Stennett** asked Ms. Haas if the server is required to ask for ID to ensure they are not serving minors and how the State will be protected from liability if there are liquor samples offered in a state building. **Ms. Haas** replied that minors are not allowed into the liquor store and explained how that works. She also reiterated service could only be for individuals over the age of 21. The language in the bill was written so that, in the event of an incident causing damage, the supplier is liable. **Ms. Haas** explained that there are adequate protections for the State within the bill. She stated the Alcohol Beverage Control Office (ABC) will enforce the laws and keep the public safe.

**Senator Buckner-Webb** asked Ms. Haas what the level of intoxication is after three samples. **Ms. Haas** replied that, after drinking one three quarter ounce sample, which is half of a full serving, a one hundred pound woman would have an intoxication level of .02. This is well below .08 which would be the intoxication level for a 200 pound man drinking the same sample size, assuming that the customer drinks all three samples at once.

**Senator Hill** asked if there are dedicated State liquor stores where sampling could take place, and if in rural areas, it would be convenience stores. **Ms. Haas** replied contract stores have roped off areas and require input from the ABC regardless of whether or not the store is in a rural area. The contract stores are in locations that are more rural and don't have the populace. ABC had questions about the contract stores and that is why there is a clearly marked off, identified, segregated area. It had to be a portion of the store inaccessible to minors. The likelihood of a sampling occurring in a contract store type location is very low. **Senator Hill** asked what percent of the State liquor dispensaries are in dedicated State liquor stores as opposed to other contracted

stores. **Ms. Haas** could not answer the question now but would get back to the Committee. **Senator Hill** maintained that college kids could drive from location to location to partake of the samples and be above the intoxication level.

**Vice Chairman Harris** called Jeff Anderson, Director, Idaho State Liquor Division (ISLD), to answer questions.

**Senator Anthon** commented that Idaho allows some sampling of liquor in the state. **Mr. Anderson** responded that there are two methods; one is at the distillery distributing stations, and suppliers and brokers can have samples at on-premise licensed liquor by the drink establishments. **Senator Anthon**, where samplings are allowed, how does the regulatory scheme compare to the proposal in this bill. **Mr. Anderson** said the .25 of an ounce is the same as what is at the distillery distributing stations. **Senator Anthon** asked if distribution centers have regulatory requirements and have some obligation related to their own license with the State to ensure statute requirements will be met. **Mr. Anderson** responded that they did have appropriate licensing.

**Senator Anthon** stated if, under this proposed statute, a contract store violates the law, could they lose their ability to sell. **Mr. Anderson** responded that they would need the ISLD's approval, and interest from a supplier/ broker who would administer the sampling. If they didn't follow the law, they would lose the ability to sell spirits. **Senator Anthon** asked if other states are doing this and what kinds of experiences have they incurred. **Mr. Anderson** said a number of states are doing sampling. Idaho is a member of the National Alcohol Beverage Control Association consisting of 17 states that are controlled jurisdictions.

**Senator Stennett** asked Mr. Anderson how many State and contract stores are in Idaho, and If contract stores chose to do sampling, would they need approval from the director of ISLD. **Mr. Anderson** answered there are 65 State and 105 contract stores. He stated 85 percent of sales come from State stores. The supplier would be the ones who give samples, not the stores. He further stated, should the bill pass, the ISLD will develop policies. **Senator Stennett** ask for confirmation that if a contract store did this, it would have to go through the ISLD director's office. **Mr. Anderson** stated it his understanding they cannot choose to do this without the permission of the ISLD. Should this become law, the ISLD will develop policies and best practices within the industry.

**Senator Winder** asked Mr. Anderson how the bill will protect against intoxication as a result of visiting multiple locations, and if liquor stores could delay giving samples until rules are developed and brought back to the legislature next year. Will the bill provide the ability to not only control, but also enforce the statutes highlighted in the bill. **Mr. Anderson** replied that policy would not allow for stores within close proximity of each other to do sampling at the same time. Regarding rules, he would have to speak to the governor's office about administrative rules relating to this and give further details at a later time. Currently, they do not have enforcement authority but it still requires ISLD's approval and when that happens they could include enforcement.

**Senator Winder** asked if the bill gives ISLD the ability to enforce current law that restrict the amount of consumption and age limitations. **Mr. Anderson** explained that, although they don't have the enforcement authority that ABC does; the method in which this would occur would require approval.

**TESTIMONY:**

**Barbara Jordan**, Idaho Trial Lawyers Association (ITLA), stated she did not have a position on the bill. However, she raised a concern about liability. Page 2, section 12 indicates the supplier is responsible for following the guidelines. The second part says a retail store that hosts the event is not responsible for anything that might come from that action. That is too broad. They should have

some responsibility. She asked to make an amendment and add these words on line 21 "and makes a reasonable effort to comply with the Idaho Liquor Act". The store does have the responsibility to make sure people under 21 are not drinking.

**DISCUSSION:**

**Senator Hill** asked Ms. Jordan what the consequences are of not having that liability. Does that mean a person cannot sue or does the liability transfer to someone else. **Ms. Jordan** said they are trying to make certain there will not be a bad outcome. There needs to be an understanding there could be consequences. **Senator Hill** stated his question dealt with the legalities. **Ms. Jordan** said it doesn't change the process, it will give a clearer indication that the store has some responsibility to make sure it is being done correctly.

**Senator Anthon** asked Ms. Jordan if the amendment would apply to both State and contract stores. **Ms. Jordan** replied in the affirmative because there is a reference to a retail store and on page 1, section 1.b, it identifies a retail store as any state store or distributing station. There is some confusion if a contract store is a distribution station.

**Senator Stennett** asked Ms. Jordan if the language being proposed in her amendment ensures both sides are held to stronger oversight on how a consumer might unwittingly end up in a condition as a result of drinking and if there is monitoring from both sides to prevent this. **Ms. Jordan** did not believe it was the intent of the amendment and said it was very clear that the suppliers are responsible and the person themselves would have some responsibility should anything happen to them.

**Senator Winder** asked Mr. Anderson if he had any thoughts on the necessity of the amendment, and if it makes any difference on how behavior is enforced within the store. **Mr. Anderson** answered there was no objection to the amendment. It did not make any difference regarding the effectiveness of enforcement or sampling occurring within State stores because serving is conducted by the supplier. Store personnel would be cooperative in setting up but not administering the liquor.

**Senator Souza** proposed to reword the amendment to be compliant with the Idaho Liquor Act. She also asked Mr. Anderson if it has already been taken into consideration. **Director Anderson** answered in the affirmative and explained how it is currently applied.

**Ms. Haas** stated there will be rules crafted around this bill and there is not a problem with any amendments from the supplier's perspective.

**Senator Winder** asked Ms. Haas if the Council is willing to commit that there will be no samplings until rules are developed. **Ms. Haas** answered in the affirmative, and they will work with ISLD to establish what those rules will be. **Ms. Haas** then gave her closing remarks and stated the Council's perspective, without amendment language, that the liability still rests with the supplier and both

State and contract stores. This bill does not absolve them of their requirement and obligation to follow the rest of Idaho State law which the ISLD director mentioned. The Council feels there is appropriate liability already in place without the amendment but it is up to the Committee to decide. She stated she would not be opposed to whatever decision the Committee came to but asked for a do pass recommendation.

**MOTION:**

**Senator Souza** moved to send **S 1076** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

**DISCUSSION:**

**Senator Hill** indicated his opposition to the motion, mostly for State liquor stores, stating they are open to contract. He also said retailers do a lot of things to get customers through their doors to buy and it should not be assumed stores will not offer free samples.

**Senator Anthon** supported the motion and said there is a State Constitutional obligation for temperance. He stated Idaho already functions without any major problems and agrees with the aforementioned major concern with smaller locations. He stated he would prefer the bill to be amended to omit language regarding smaller locations. The supplier should be ultimately responsible and the State should not take any liability.

**Senator Souza** supported the motion. She said the Director of ISLD has the discretion on who can offer free samples under the auspices of the rules the division will be creating. That protection and oversight will be in place, and sampling would not occur due to the regulations in place.

**Senator Winder** commented that the concerns raised were valid and changed his view on some things. Providing some rules before anything begins is important. One thing to remember is the director has discretion but he cannot function properly without some format in place. Without a format, the State or the director may end up being sued. He proposed to hold the bill in Committee until a future meeting for the purposes of determining if an amendment is needed to include language that would require promulgating of rules before any sales or sampling could take place. He also said, even though the Committee has the ability, Idaho Code does not say the Committee has the right to promulgate rules. He then said he would be more comfortable with it after further analysis before sending the bill to the floor.

**SUBSTITUTE MOTION:**

**Senator Winder** moved to hold **S 1076** in Committee until the next meeting to potentially amend and promulgate rules. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

**S 1113 AND S 1114**

**Chairwoman Lodge** stated she was bringing forward **S 1113** and **S 1114** which were the result of the work the Campaign Finance Committee (CFC) did over the 2018 interim. The State Treasurer's Office received a grant to create a book to make campaign finance requirements easier to understand. She gave a brief overview of the interim events and expressed gratitude for the Office of the Secretary of State (SOS) as they implement their new financial disclosure technology making access and transparency available to Idahoans.

**S 1113**

**RELATING TO CAMPAIGN FINANCE REPORTS** for the promotion of openness and public confidence by those giving financial support to election campaigns and transparency to the political process.

**Chairwoman Lodge** described what the bill does on a page-by-page basis. The points she covered were: definitions, electioneering communication, addition of local government offices which will be added to the SOS data base, types of political subdivisions of the state or special districts excluding legislative, judicial, statewide, or federal office. The bill further describes the role of the political treasurer and local clerks.

**Chairwoman Lodge** said the next major change was in *Reports of Contributions and Expenditures By Candidates and Political Committees* on page 7. She read directly from the bill and explained in detail what the section meant. The section covered statements, reporting, dollar amounts, contributions, time frames and due dates, and expenditures and encumbrances. She described the rules, inspections, roll of SOS, and clerks. There was also some clean-up language.

**DISCUSSION:**

**Senator Souza** asked if the SOS will come up with a creative graphic to notify all necessary candidates and groups.

**Vice Chairman Harris** recognized the Secretary of State, Lawrence Denny to answer questions. **Mr. Denny** replied they would do that.

**Senator Stennett** discussed her concerns over the SOS's available manpower, immediacy and amount of reporting that is expected, local government infrastructure, and the lack of grace time to train all those involved.

**Mr. Denny** answered that they are in the process of doing the campaign finance portion and it won't be ready until July, 2019. The implementation for this is January 1, 2020 so there are no elections that will be impacted. There will be a transition period but there is time to address that issue. **Senator Stennett** said, in the event there is confusion and lack of proper reporting, the steps to demand or collect penalties will be in place and the SOS's office will have to decide how to handle those requirements. **Mr. Denny** responded that by the time this bill goes into effect, all of these questions will be solved. There will be elections before that time to allow the SOS, cities, and counties to be prepared and provide some experience. **Senator Stennett** asked if a deadline isn't met, and the fine not paid, what recourse does the SOS have. **Mr. Denny** said there is no recourse. They turn it over to the Attorney General's office. There has been no precedent of that happening. It is \$50 per day so it could be a substantial amount.

**TESTIMONY:**

**Phil McGrane**, Ada County Clerk, stated the manpower for enforcing the new program is not restricted to only the SOS, but is also a shared responsibility by the 44 county clerks who will have enforcement authority, specifically within those local jurisdictions. Additionally, the fines referenced earlier are for timely reporting. Timely reporting has been an issue in past elections. He agreed with Senator Stennett that there will be some issues in terms of accuracy, and there are no fines to correct mistakes that have been made. He said these fines will ensure timely reporting.

**Senator Stennett** reiterated her concerns about manpower, training, and the ability to do what is needed. **Mr. McGrane** stated his confidence in his colleagues and others. Comparing this legislation to the status quo, it is significant that where we are today can be easily improved. He continued to explain what happens now with campaign finance reporting in the 79 jurisdictions filing throughout the state. He concluded by explaining that combining this information in one place with easy access will dramatically improve transparency throughout the state. It may not be perfect but it will be a vast improvement. **Senator Stennett** stated that, right now, it was his feeling that all of the counties have the ability electronically and the staff to do what is being asked in this legislation. **Mr. McGrane** answered he did not. He explained the obligation of the SOS prescribed by this legislation is to establish an online database; it hasn't been established. The SOS is well underway in developing those tools. The county clerks will be working with the SOS through the statewide database and with the cooperative effort, anticipate having it done as early as this spring, and certainly before January.

**Senator Winder** asked Mr. McGrane if they had plans to educate city officials, and anyone running in a local election, how to use the software. Also, if the SOS would address this same issue and the public awareness programs. **Mr. McGrane** responded that those specific plans have not been outlined yet. The implementation plans are for the software. There has been conversation about education the SOS office will provide to the clerks. There will be a process to notify all public officials who are obligated to report or have a treasurer. He explained how the smaller jurisdictions would be included. Ongoing training

sessions have been in place for a long time and those will continue. By bringing everything into a centralized database, it will not only make it central, hopefully, it will do the math.

**Senator Souza** asked Mr. McGrane what kind of feedback they are receiving regarding the new program. **Mr. McGrane** stated the transition is smooth and has much easier and is better than paper reports; the most compelling is centralizing the information and turning it into data. He also said it is exponentially increasing the amount of transparency compared to the current paper system, and if someone does not have access to the internet, the SOS office can still issue a paper copy.

**TESTIMONY:**

**Alex LeBeau**, President of the Idaho Association of Commerce and Industry (Association), gave his credentials. He stated he is the treasurer of two of the largest Political Action Committees (PAC) who authorized him to speak on their behalf. He stated they are in full support of **S 1113** as well as **S 1114**. They provided a number of different recommendations and said there must be a balance between free speech and the public right to know who is or who is not speaking, and the discussion topic. **Mr. LeBeau** said the purpose of this legislation is to promote public confidence in government, to promote openness and transparency by those giving financial support to election campaigns, and to identify those promoting or opposing legislation or attempting to influence executive or administrative actions via financial compensation. It is very important and central to everything that the work of the CFC be praised. He insisted **S 1113** allows for greater transparency and stated the public deserves to know campaigns are fundamentally a public process; this bill allows for more information to aid in the decision making process. For voters to make informed decisions, they need all of the information possibly available. It is important for the public to know who is discussing important issues and that is why the Association approves of this bill.

**MOTION:**

**Senator Anthon** moved to send **S 1113** to the floor with a **do pass** recommendation. **Senator Souza** seconded the motion. The motion carried by **voice vote**

**S 1114**

**RELATING TO CAMPAIGN FINANCE** to increase transparency in campaign finance for statewide, legislative and local elections.

**Chairwoman Lodge** stated **S 1114** provides a way to release information that will increase transparency to participants and the public relating to statewide, legislative, and local elections.

**Vice Chairman Harris** announced that, due to time constraints, the presentation will be postponed until the next meeting but the Committee will hear testimony on **S 1114** from those who have traveled from out of town.

**TESTIMONY:**

**Tyler Martinez**, Institute of Free Speech, spoke in opposition to **S 1114**. He stated they have several constitutional concerns with **S 1114**. **Mr. Martinez's** concern about expanding the electioneering communications window isn't really about transparency, it is about requiring citizens to register and report to the government in order to speak on legislative issues. This bill expands the time period and is two and one-half times longer than the time frame in federal law. It covers more than federal law does by including social media, pamphlets, and flyers in addition to TV and radio ads. He stated the bill is too extreme for what Idaho needs right now. Colorado and Montana have similar laws and there has been litigation as a result.

**DISCUSSION:**

**Senator Souza** asked Mr. Martinez if he would support this bill if the language was changed to be more ambiguous. **Mr. Martinez** replied in the affirmative.



**Senator Vick** asked Mr. Martinez if he believed he would try to have the bill struck down if it is passed in its current form. **Mr. Martinez** replied in the affirmative and stated any enterprising lawyer would like to challenge the bill with the current language if it passed.

**Senator Stennett** asked if non-profit organizations endorsing candidates would be prohibited from doing the work they normally do. **Mr. Martinez** said the bill would be a burden on any type of education related non-profit organization. Their donors would have to be disclosed if this bill passes; the law itself does not ban non-profit organizations endorsing candidates but it would dissuade voters from participating in the political process.

**TESTIMONY:**

**Sean Parnell**, Vice President, Public Policy at the Philanthropy Roundtable, spoke in opposition to the bill. **Mr. Parnell** said he is most concerned about the requirement of 501c3 organizations to disclose their donor lists which have, historically, remained anonymous. **Mr. Parnell** stated that the definition of electioneering communication is broad and would ignore that long history. Other nonprofit organizations routinely and actively engage in public policy issues and that is reflected in some of their communications. **Mr. Parnell** voiced his opinion that this bill would make the citizenry worse off if these disclosures were to be made.

**Senator Souza** restated her question regarding "unambiguously refers" and changing that phrase to a specific candidate or measure. **Mr. Parnell** said that would go part way in answering their objection; 501c3 charities are, by law, prohibited from engaging in any sort of partisan elections. They are allowed to support ballot measures.

**Vice Chairman Harris** announced that the hearing for **S 1114** will continue on Friday, February 22, 2019.

**ADJOURNED:**

There being no further business, **Vice Chairman Harris** adjourned the meeting at 10:37 a.m.

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Senator Lodge  
Chair

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Twyla Melton  
Secretary

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Assisted by Jon von Nieda