

MINUTES  
**SENATE STATE AFFAIRS COMMITTEE**

**DATE:** Monday, February 15, 2021

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

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairwoman Lodge, Vice Chairman Guthrie, Senators Winder, Anthon, Harris, Lee, Heider, Stennett, and Burgoyne

**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:** **Chairwoman Lodge** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:01 a.m.

**RS 28563** **Relating to Elections; to revise provisions regarding city council elections.**

**Senator Winder** stated **RS 28563** deals with city elections in cities with a population over 100,000. He noted that census information from the federal government will be delayed, consequently not allowing enough time to accomplish redistricting for the November elections. **Senator Winder** advised the Committee that **RS 28563** will delay city elections until 2023, and that cities with a population in excess of 100,000 will be required to elect city council members by districts. He explained that the city of Boise was involved in making this decision.

**MOTION:** **Senator Guthrie** moved to send **RS 28563** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**RS 28559** **Relating to the Legislature; to provide a process to call a special session of the Idaho Legislature.**

**Senator Winder** explained that **RS 28559** deals with the need to call the Legislature into a special session. He explained that the bill would put the process into code rather than calling for a constitutional amendment. **Senator Winder** pointed out that the Secretary of State would have oversight and passage would require 60 percent approval by both houses.

**DISCUSSION:** **Senator Burgoyne** inquired about the purpose of putting this bill into code instead of into a constitutional amendment. **Senator Winder** responded that this would set up the process and then the two would run concurrently.

**MOTION:** **Senator Anthon** moved to send **RS 28559** to print. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**PASSED THE GAVEL:** Chairwoman Lodge passed the gavel to Vice Chairman Guthrie.

**S 1085** **Relating to the Fetal Heartbeat Preborn Child Protection Act; relating to the detection of the fetal heartbeat.**

**Blaine Konzatti**, Executive Director, Family Policy Alliance of Idaho, advised that if **S 1085** passes, it will support the work of the pro-life movement. He asserted that **S 1085** is rooted in scientific, legal, and moral truths and, as such, will be upheld as constitutional by the federal courts. **Mr. Konzatti** referred to the trigger mechanism that would become effective upon a decision of a federal appellate court; i.e.,

a circuit court of appeals or the Supreme Court, upholding a heartbeat law. He pointed out that last year the Legislature passed a trigger law that would revert Idaho abortion laws back to pre-Roe vs Wade law if it were overturned by the Supreme Court, or if there was a constitutional amendment returning the issue to the states.

**Mr. Conzatti** explained that **S 1085** has a completely different trigger under a different scenario from last year's law. He specified the importance of the trigger as a way to curtail expenditure of State resources defending a law in court prematurely.

**Mr. Conzatti** identified the second, most important provision in **S 1085** as the requirement for a doctor to follow standard medical practices with reasonable professional judgment in determining the heartbeat of a pre-born child before an abortion is performed.

**DISCUSSION:** **Senator Burgoyne** inquired if any circuit court in the country, even without jurisdiction over Idaho, would put this law into effect. **Mr. Conzatti** replied that it would put the law into effect as it would provide legal precedence if the Idaho law were challenged in court. **Senator Burgoyne** referred to the fiscal note as showing no anticipated expense to the State. He said if the law were challenged, the case would be heard in the 9th Circuit Court, thus incurring legal expenses for the State. **Mr. Conzatti** agreed with Senator Burgoyne, added that any legislation carries the risk of a challenge. **Senator Burgoyne** suggested that some adjustment should be made to the fiscal note.

**Senator Guthrie** referred to page 3, line 13, of the bill, which notes discipline of a medical practitioner who performs an abortion contrary to the guidelines. He asked what kind of discipline would be administered. **Mr. Conzatti** replied that it would be professional discipline from the Idaho State Board of Medicine.

**TESTIMONY:** The following testified in support of **S 1085** :

- Karen Simpkins, Silent No More Awareness Campaign
- Melissa Hemphill, Regional Coordinator, Idaho Silent No More Awareness Campaign
- Jackie Wakefield
- Carolyn Beyer (virtual)
- PA Samantha Doty, Stanton Healthcare
- Linda Thomas, Director, Community Outreach, Stanton Healthcare
- Kelly Cope, Stanton Healthcare
- Robin Watters, Executive Director, Lifeline Pregnancy Care Center
- Jon Evans
- Tammy Payne, Right to Life of Idaho
- Josh Bales, The Well Church
- Christian Welp, Catholic Diocese of Boise and Bishop Peter Christensen
- Alan Burrow, Meridian East Congregational Church
- Maggie Gough

Reasons given for support:

- any human being should have the opportunity to live
- adverse effect on society
- little or no information given on alternatives, even from Planned Parenthood

Reasons given for support cont.:

- dangers, mental and physical, to women who have abortions
- at conception all DNA necessary for a human being is in place
- death occurs upon cessation of heartbeat; birth should begin at beginning of heartbeat
- options, such as adoption, are available
- religious implications
- public policy
- continually growing number of lives lost

The following testified against **S 1085**:

- Dr. Rachel Chisausky (virtual)
- Diane Baumgart (virtual)
- Dr. Angela Bangs (virtual)
- Cameron Needom (virtual)
- Dr. Andrea Christopher (virtual)
- Heather Stout (virtual)
- Kathryn Dawes (virtual)
- Lauren Bramwell, American Civil Liberties Union (virtual)
- Misty DelliCarepini-Tolman, Planned Parenthood Votes (virtual)
- Lori Burell, National Organization for Women, Southwest Idaho Chapter
- Casey and Margie Baker, Effective Activism Idaho
- Sarae Simpson (virtual)
- Jenifer Martinez, Add the Words (virtual)
- Samantha Kennedy (virtual)
- Ms. Lincoln, Legal Voices (virtual)

Reasons given for opposition:

- too early to make a decision
- decision would be rushed
- woman's right to autonomy
- unconstitutional
- limitations on providing women's health care, especially the poor or disabled
- all have a right to freedom of choice and personal responsibility in all medical decisions
- parents have a right to decide on medical care of children
- unobtainable time line for low-income rural Idahoans
- prohibits health care providers from providing ethical, necessary care to patients
- potential for violation of patient privacy

- puts women and children in increased danger

The following written testimony was submitted in support of **S 1085**:

- Nicholas Farar
- Shawn Cope
- Mary Ellen Nourse, Ed.D.

Reasons for support:

- complete human DNA is present at conception
- humans are entitled to life, liberty and the pursuit of happiness
- abortion violates the rights of both men and women
- preborn children should have equal protection under the law

The following written testimony was submitted in opposition of **S 1085**:

- Dr. Caitlin Gustafson

Reason for opposition:

- makes abortion more dangerous, not less frequent
- increases women's health risk
- negatively affects low-income women and women of color

(see Attachment A for all written testimony)

**DISCUSSION:** **Senator Stennett** and **Ms. Watters** discussed their views regarding the option of adoption as opposed to abortion, viability of the fetus, and brain development. **Senator Burgoyne** and **Mr. Bales** discussed the religious implications of when life begins. **Senator Stennett** and **Ms. Bramwell** discussed concerns regarding patient privacy.

**Mr. Conzatti** noted that the supreme court has not ruled on a heartbeat bill; however, there are several heartbeat laws pending. He reaffirmed that the intent of the trigger mechanism is to refrain from expending State resources to defend this law prematurely. **Mr. Conzatti** pointed out that under this law women do not have to prove rape. He asserted that the preborn baby's heartbeat is exactly the same as any human heartbeat. **Mr. Conzatti** advised that medical literature states that a heartbeat in the first trimester will result in a full term pregnancy.

**Senator Winder** reported that he had been advised this is a step backwards in protecting life in Idaho. **Mr. Conzatti** acknowledged that he had heard that concern, but that it referred to a law presented last year, S 1385. He maintained that this bill is a way for the State to try and protect preborn children.

**Senator Burgoyne** pointed out that the fiscal note needs to be corrected as it relates to other circuit courts of appeal that will not be considered a precedent. A 9th Circuit Court of Appeals trigger that says within this circuit this legislation is lawful would matter. He identified some technical concerns in the bill. Law enforcement might not be the first place a women would go, it could be the clergy or parents. **Senator Burgoyne** perceived this issue as dealing with differing views of religion, and he felt strongly that government could not legislate in this area.

**MOTION:** **Senator Heider** moved to send **S 1085** to the floor with a **do pass** recommendation. **Second Harris** seconded the motion.

**DISCUSSION:** **Senator Stennett** expressed concerns regarding the decision to abort, stating that the State should not be involved, and that the individuals involved should make that

decision. She observed that the costs of fighting for this bill in court would cover the costs to assist many of Idaho's needy children.

**Senate Heider** stressed the bill is so significant, it should be discussed by the full Senate rather than just the Committee members.

**Senator Lodge** stated the Legislature has a duty to care for those who cannot care for themselves, so she will be supporting the bill.

**VOTE ON THE MOTION:** The motion carried by **voice vote**. **Senators Burgoyne and Stennett** voted nay.

**PASSED THE GAVEL:** Vice Chairman Guthrie passed the gavel back to Chairwoman Lodge.

**ADJOURNED:** There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 10:23.

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Senator Lodge  
Chair

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Twyla Melton  
Secretary

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Carol Cornwall  
Assistant Secretary