

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Tuesday, April 06, 2021
TIME: 9:00 A.M.
PLACE: Room EW40
MEMBERS: Chairman Crane, Vice Chairman Armstrong, Representatives Palmer, Barbieri, Holtzclaw, Monks, Scott, Andrus, Young, Furniss, Hanks, Skaug, Gannon, Mathias
**ABSENT/
EXCUSED:** Representative Monks
GUESTS: Carson Tester - Westerberg and Associates, Lincoln Guyser - S360, Jason Hancock - Deputy Secretary of State, Christ Troupis - Self, Casey Baker - EFI, Margie Baker - EFI

Chairman Crane called the meeting to order at 9:02 a.m.

MOTION: **Rep. Mathias** made a motion to approve meeting minutes from March 10, 2021 and March 11, 2021. **Motion carried by voice vote.**

S 1134: **Sen. Harris** presented **S 1134** to amend Idaho Code 45-1005A by inserting language allowing for the recovery of federal funds after a Declaration of State Emergency has expired or is terminated.

Sen. Harris noted the following changes: Strike the word "during" and replace it with, "arising out of" and strike "general account" to "general fund" and including a severability clause and emergency clause to the bill. The spending limit of 1% of general fund remains the same.

MOTION: **Rep. Palmer** made a motion to send **S 1134** to the floor with a **DO PASS** recommendation.

Margie Baker testified in **opposition** to **S 1134**. She stated the Constitution was directed to control government. She referenced Article 20 and does not feel the people are being heard.

VOTE ON MOTION: **Motion carried by voice vote. Rep. Blanksma** will sponsor the bill on the floor.

S 1061: **Rep. Young** presented **S 1061**. The purpose of this legislation is to provide clearer and more consistent election order deadlines. It makes changes in procedures to help Idaho's election process run more smoothly.

Jason Hancock, Deputy Secretary of State clarified this legislation by section: 1: Aligns the election order deadline for the presidential primary with the 60 - day standard used in the state primary. 2: Aligns the election order deadline for recall elections with the election order deadline for other types of elections. 3: Clarifies all Idaho election process deadlines falling on a weekend or holiday will, instead, fall on the first business day following said weekend or holiday. 4: Moves the deadline for filling a vacancy on the ballot, and the deadline for candidate withdrawal, to a point on the calendar where it is still possible to produce a correct ballot for all voters. 5: Creates a deadline for an officer subject to a recall election to submit the required rebuttal statement for the ballot.

Margie Baker testified in **support** of **S 1061**. She stated, "All political power is inherent to the people."

Rep. Palmer supports this bill but had some questions.

MOTION: **Rep. Palmer** made a motion to send **S 1061** to **General Orders**. **Motion carried by voice vote. Rep. Young** will sponsor the bill on the floor.

H 322: **Rep. Dixon** presented **H 322** This legislation provides a method for the State of Idaho to exercise its responsibility to interpose between its citizens and actions of the federal government that are outside of the enumerated authority granted to the federal government in the Constitution of the United States.

Rep. Dixon said this legislation is addressing a growing need, throughout the country. Every state's Constitutional Preamble starts with the words, "We the People of (fill in the state).", The implication is states recognize they are independent agents, not subsidiaries of the federal government. The original 13 states created our federal government and the Bill of Rights was created. One of the most important points in that document is the 10th Amendment. There has been a slow encroachment of the federal government into the states. This bill would allow elected representatives of Idaho to say to the executive branch that the body does not want certain laws to be enacted in Idaho.

Rep. Dixon requested the committee send **H 322** to the **General Orders**.

In response to questions, **Rep. Dixon** said that part of the amendments would include assuring complaints brought before the committee will be addressed in a reasonable timeframe.

The legislature may currently ask a court to issue an injunction against the enforcement of an action. This bill includes a pause. When a complaint is brought to the committee and it is deemed a legitimate cause, then there is a pause on enforcement within the state. This happens when the federal government steps outside of its enumerated authority. It cannot be used as a tool to temporarily halt actions.

Rep. Mathias requested to hand out an analysis of **H 322** from the Attorney General's Office. (See attachment 1)

Casey Baker - self, testified **in support** of **H 322**. He stated it is more appropriate and transparent to have a JFAC committee established to determine how Idaho's disaster money will be sent.

Margie Baker - Self, testified **in support** of **H 322**. She referenced Article 1, Section 2, Section 10 and Section 17 of the Constitution. Ms. Baker stated this bill will protect Idahoans.

Christ Troupis - Self, stated he has been an attorney for over 40 years, with a focus on federal law. His opinion is **H 322** can withstand federal scrutiny in court and is a reasonable and prudent step to take to maintain Idaho values. He noted the bill does not declare federal law unconstitutional law. It creates an administrative process to review it. Well settled courts are required to defer to the reasoning and decision of the administrative tribunal before determining whether a statute is constitutional. Finally, the current administration stipulated the dismissal of three cases pending in the Supreme Court against sanctuary cities. They have taken the position in respect to immigration laws that states, and cities do not have to abide by all federal laws. They may choose which laws to disregard based on their own state and local policies and constitutions. The Idaho Legislature has a role to play. (See attachments 2 and 3)

Mr. Troupis requested two handouts be provided to the committee. Robert N. Wilkinson, Acting Attorney General, Et al., Petitioners v. City and County of San Francisco, Et al and an article titled Court Dismisses :Sanctuary Cities" Petitions.

In response to questions from the committee, **Mr. Troupis** said because of the precedent set by a ruling in the 9th Circuit Court in favor of the City and County of San Francisco, a legal, binding precedent has been set based on the 10th Amendment. Because Idaho is in the 9th Circuit Court, the state can argue the 10th Amendment allows Idaho to determine when its policies conflict with those of the federal government. This legislation provides a useful tool.

The Attorney General's opinion said this law itself is not unconstitutional. There were concerns about the supremacy clause. The attachment of federal funds has also been discussed. Commerce cannot be affected. To date, states have simply not tried to flex their muscles. It is **Mr. Troupis'** opinion that until Idaho tests the limits, it will not know how much latitude exists.

Mr. Troupis stated his opinion is the Supreme Court would strike down making abortions illegal in Idaho, citing the 10th amendment. The Supreme Court determines the federal right of privacy to choose is a constitutionally protected right.

In closing, **Rep. Dixon** quoted the Book of Job.

MOTION: **Rep. Armstrong** made a motion to **HOLD H 322** in Committee.

SUBSTITUTE MOTION: **Rep. Holtzclaw** made a substitute motion to send **H 322** to **General Orders**. **Motion carried by voice vote.** **Rep. Dixon** will sponsor the bill on the floor.

Chairman Crane stated the committee heard a replacement RS for **H 321** on March 19, before the recess. The new bill has not yet been printed. He entertained a motion to **HOLD H 321** until the replacement bill is printed.

MOTION: **Rep. Andrus** made a motion to **HOLD H 321** in committee. **Motion carried by voice vote.**

Chairman Crane said the Legislature will wait five days after completing its business to ensure the Governor acts on bills in the process. During that time, the committee will hear the Agency Rules. He anticipates starting the hearings on April 19, 2021 or April 20, 2021. The committee will continue to meet between now and then.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 9:42 a.m.

Representative Crane
Chair

Kelly Staskey
Secretary