

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 16, 2022

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: **Chairman Lodge** called to order the meeting of the Senate State Affairs Committee (Committee) at 2:01 pm.

S 1383 **RELATING TO ALCOHOL - VOTE ONLY - Amends, repeals, and adds to existing law to revise provisions regarding alcohol, including licensing.** **Vice Chairman Guthrie** acknowledged the hard work that had been done on **S 1383** but felt that modifications were needed.

MOTION: **Vice Chairman Guthrie** moved to hold **S 1383** in committee. **Senator Stennett** seconded the motion. The motion passed by **voice vote**. **Chairman Lodge** was recorded as voting nay.

GUBERNATORIAL APPOINTMENT: **THE GUBERNATORIAL APPOINTMENT of Matthew Woodington to the Idaho State Racing Commission.** **Dr. Matthew Woodington** introduced himself to the Committee and shared about his background. He grew up in the Treasure Valley in a family that was involved in horse racing. That led him to become a veterinarian. He worked at Les Bois racetrack caring for the horses until it closed.

DISCUSSION: **Senator Stennett** thanked Dr. Woodington and asked him how far reaching his veterinary practice was. **Dr. Woodington** responded that his practice served the whole valley. **Chairman Lodge** asked whether Dr. Woodington did the inspections required for out of state and international sales. **Dr. Woodington** replied that he did. **Chairman Lodge** stated that the Committee would vote on his appointment at its next meeting.

S 1398 **TERRORIST CONTROL ACT- Amends existing law to provide for the crime of domestic terrorism.** **Senator Anthon** presented **S 1398**. He explained that **S 1398** defined "terrorism" and "domestic terrorism." In addition, it required due process prior to a designation of an individual as a terrorist or domestic terrorist. **Senator Anthon** stated that the increase in protests and violence at school board, highway district and other hearings and meetings had led to the need for clarification of these terms.

DISCUSSION: **Senator Stennett** asked for an example of what would be required for an individual to be labeled as a terrorist or domestic terrorist. **Senator Anthon** stated that **S 1398** contemplated an individual who worked in a substantial way with a terrorist organization that had been clearly defined as such by the federal government.

MOTION: **Senator Harris** moved to send **S 1398** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion.

DISCUSSION: **Senator Burgoyne** expressed several concerns regarding **S 1398** and stated that he would vote against the motion. First, **S 1398** required that whatever action criminalized must be in cooperation with a federally designated international terrorist organization. **Senator Burgoyne** noted that usually a terrorist organization was not known until after they claimed responsibility for an act. His second concern was that there was no language regarding conspiracy to commit terrorism in **S 1398**. That related to his third concern regarding the intent language.

VOICE VOTE: The motion to send **S 1398** to the floor with a **do pass** recommendation passed by **voice vote**. **Senator Burgoyne** was recorded as voting nay.

S 1405 **STATE GOVERNMENT AND STATE AFFAIRS - Adds to existing law to establish provisions regarding disfavored state investments.** **Senator Vick** presented **S 1405**. He explained that section 1 stated the purpose of investing was to be prudent in investing. Section 2 set forth notifications an investment agent was required to make to the state. Section 3 provided that proxies for all public entities belonged to that entity. **Senator Vick** explained proxy voting and stated that this was a mechanism used to influence decisions and votes of shareholders. He then explained that a disfavored investment was one which went against certain values. **Senator Vick** argued that of primary importance in investing was application of the Prudent Investor Act.

DISCUSSION: **Senator Burgoyne** asked whether the Prudent Investor Act prevented an entity from considering environmental, social or governance (ESG) factors. **Senator Vick** replied that he didn't think that issue was addressed in the Prudent Investor Act. **Senator Guthrie** asked whether it would have made sense to define ESG scoring in this legislation. **Senator Vick** responded no and stated that not all companies use ESG scoring, that they were just characteristics. **Senator Burgoyne** asked whether **S 1405** prohibited public entities from investing in companies such as Idaho Power that used ESG scoring? **Senator Vick** explained that **S 1405** permitted consideration of ESGs, but that it shouldn't be the only consideration. **Senator Burgoyne** asked whether the intent of **S 1405** was to require prudent investments or to require that they made decisions consistent with Idaho values. **Senator Vick** responded that the intent was to require prudent investments and to ensure that those investments were consistent with Idaho's values.

TESTIMONY: **State Treasurer Julie Ellsworth** shared 3 letters which showed the increased consideration of ESGs in disregard of the Prudent Investor Act. She further cited examples of the use of proxy votes to promote ESGs in disregard of the Prudent Investor Act. Finally, **Treasurer Ellsworth** stated that it was important for proxy votes to belong to public entities.

DISCUSSION: **Senator Stennett** asked what safeguards were in place to ensure that the voice of the people was heard where an industry acted with the approval of the state. **Treasurer Ellsworth** responded that **S 1405** required compliance with the fiduciary duties under the Prudent Investors Act. **Senator Burgoyne** asked to address a question to Deputy Attorney General Andy Snook. **Senator Burgoyne** asked for clarification of **S 1405** which required that public entities must or shall apply the Prudent Investor Act, but then stated that the Prudent Investor Act did not prohibit consideration of ESGs. **Mr. Snook** responded that **S 1405** did not prohibit consideration of ESGs, but that those considerations were secondary to compliance with the Prudent Investor Act.

TESTIMONY: **Johnathon Oppenheimer**, External Relations Director with the Idaho Conservation League, stated opposition to **S 1405**. He argued that the provision in **S 1405** that required notification to public entities of investments that adopted a policy related to disfavored investments was too broad and could be used to require businesses to provide excessive information. In addition, **Mr. Oppenheimer** argued that **S 1405** went against free market principles. Finally, he asserted that **S 1405** gave concurrent resolutions dating back to territorial days the effect of law.

DISCUSSION: **Senator Vick** stated that **S 1405** was not retroactive and, therefore, he felt that Mr. Oppenheimer's concerns regarding concurrent resolutions were not valid.

MOTION: **Senator Anthon** moved to send **S 1405** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion.

DISCUSSION: **Senator Burgoyne** stated that he felt Mr. Oppenheimer's concern about concurrent resolutions having the effect of law was warranted.

VOICE VOTE: The motion to send **S 1405** to the floor with a **do pass** recommendation passed by **voice vote**. **Senators Stennett** and **Burgoyne** were recorded as voting nay.

H 695 **RECALL ELECTIONS - Amends existing law to revise a provision regarding the number of signatures required on a recall petition.** **Representative Young** presented **H 695**. She explained that **H 695** clarified how signatures required for a recall election were calculated and ensured that the calculation is based on the electors who were eligible to vote.

TESTIMONY: **Jason Hancock** explained that the reason **H 695** was necessary was that historically special districts below the city level elected officials and boards by zone. **H 695** adopted more generic language that required that the signatures for a recall election be signed by registered electors residing within the district, subdistrict, or zone in which the electors were eligible to vote for the official.

DISCUSSION: **Senator Lee** asked for clarification on where the signatures must come from. **Mr. Hancock** replied that the signatures must come from individuals within the district, sub district or zone electing the individual who the petition to recall was against.

MOTION: **Senator Guthrie** moved to send **H 695** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

H 705 **RELATED TO MARTIAL LAW - Amends existing law to provide for certain limitations during a state of extreme emergency.** **Representative Monks** presented **H 705**. It amended Idaho Code § 46-601 to guarantee the same protections and to be consistent with the amendment to Idaho Code § 46-1008 in **S 1262** signed by the governor earlier this session.

DISCUSSION: **Senator Burgoyne** expressed concern about the ability of the Idaho National Guard to determine which weapons were lawful and which were not.

VOICE VOTE: The motion to send **H 705** to the floor with a **do pass** recommendation passed by **voice vote**. **Senators Burgoyne** and **Stennett** were recorded as voting nay.

H 728 **RELATED TO PERSI - Adds to existing law to provide for the divestment of certain assets related to Russia.** **Representative Gannon** presented **H 728**. **H 728** required PERSI to divest certain assets related to Russia. **Representative Gannon** noted that PERSI had already divested \$7 million of \$8.4 million of investments related to Russia.

MOTION: **Senator Winder** moved to send **H 728** to the 14th Order of Business for possible amendment. **Senator Anthon** seconded the motion.

DISCUSSION: **Senator Burgoyne** stated support for **H 728** and expressed a desire to see it move forward. **Senator Winder** expressed concern with how to identify and dispose of assets within seven days.

VOICE VOTE: The motion to send **H 728** to the 14th Order of Business for possible amendment passed by **voice vote**.

H 747 Consideration of **H 747** was postponed to a future meeting.

MINUTES APPROVAL: **Senator Lee** moved that the Minutes of February 9, 2022 be approved. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

Senator Winder moved that the Minutes of February 23, 2022 be approved. **Senator Heider** seconded the motion. The motion passed by **voice vote**.

Senator Guthrie moved that the Minutes of February 25, 2022 be approved. **Senator Stennett** seconded the motion. The motion passed by **voice vote**.

ADJOURNMENT: There being no further business at this time, **Chairman Lodge** adjourned the meeting at 9:10 am.

Senator Lodge
Chair

Twyla Melton
Secretary

Meg Lawless
Assisting Secretary