

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 15, 2018

TIME: 1:30 P.M.

PLACE: WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Lee, Senators Hagedorn, Lakey, Anthon, Foreman, Potts, Burgoyne and Nye.

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 meeting of the Judiciary and Rules Committee to order at 1:28 P.M.

INTRODUCTION: **Chairman Lodge** introduced Committee page **Alexa Larsen** who gave an overview of her school accomplishments, interests, family, hobbies and future plans including attendance at Brigham Young University.

Chairman Lodge also introduced committee secretary **Anna Wroblewski-Jones** who briefly described her paralegal experience and background.

Senator Burgoyne introduced his extern Douglas Waterman, a third year law student attending the University of Idaho College of Law. The legal externship program within the law school provides law students with access and experience with Legislature.

GENERAL BUSINESS DISCUSSION: **Chairman Lodge** explained attendance appropriately noting absent Senators and requested audio roll call for those listening. **Chairman Lodge** explained that Committee's Friday meetings will not occur every Friday due to long distance travel. She noted that should they occur they will be shorter meetings. She explained continuing efforts to proceed electronically and requested everyone ensure the work is done efficiently and cost-effectively.

Chairman Lodge noted that she frequently and thoroughly reviews the Fiscal Notes portion of legislation and analyzes its effects. She emphasized that the goal of the Committee is to highlight any discrepancies and bring forth to the attention of the members of the Committee.

GUBERNATORIAL HEARING: **Chairman Lodge** introduced **Colonel Kedrick Wills** of the Idaho State Police (ISP). **Col. Kedrick Wills** expressed his appreciation to the Chairman and each member. He was joined by his wife, Joanna and daughter Kayla serving as page in the House of Representatives. He has three other daughters who are not present for the hearing. He emphasized that in his career for the Idaho State Police he has strived to uphold the highest standards and praise for the State of Idaho. **Col. Wills** described his credentials and educational background. He recalled his childhood upbringing and his father's legacy. **Col. Wills** thanked his family for the sacrifices they have made. He further introduced three state troopers: Officers Fortner, Lewis, and Hammond. The officers were praised for their dedication and accomplishments. Each officer provided a brief statement. **Chairman Lodge** requested that each officer provide a brief introduction. Each trooper proceeded to provide a brief statement of their length in service.

Members of the Committee thanked **Col. Wills** for his service and dedication.

Senator Hagedorn expressed praise for the ISP and voiced concern over the current challenges that the ISP is facing. **Col. Wills** responded that there are significant challenges in population growth and traffic responsiveness. His proposed solutions include the creation of additional patrol positions especially in rural areas in order to reduce response time. He mentioned reducing costs through utilization of video testimony. He mentioned an increase in case growth for forensic scientists. His future focus is to get the most out of the resources currently available.

Senator Hagedorn inquired as to administrative challenges. **Col. Wills** stated that this challenge is foremost; he provided an example of partnering with other agencies on drug arrests as a strategy to reduce that burden. He also mentioned other administrative challenges surrounding time sensitive investigations and delivering the best results with the resources available. **Senator Hagedorn** thanked **Col. Wills**.

Vice Chairman Lee emphasized her experience on the drug investigations and the work ISP is doing. She asked **Col. Wills** to explain his position and it's role in the ISP.

Chairman Lodge stated the vote to confirm **Col. Wills** will occur on Wednesday, January 17th, 2018 and commended **Col. Wills** on his work; recalling **Col. Wills'** father praising him for his work on CRASH and his volunteer work.

RS 25727

Regarding Amendment To Joint Rule 4 of the Senate and the House of Representatives. Secretary of the Senate, **Jennifer Novak** explained the need for the amendment, as the language required reconsideration and review from the previously formatted version in order to alleviate confusion.

MOTION:

Senator Anthon moved to send **RS 25727** to print. **Senator Lakey** seconded the motion. The motion passed by **voice vote**.

Senator Hagedorn moved to send to 10th Order of Business. **Senator Anthon** seconded. The motion passed by **voice vote**.

RS 25761C1

Relating to Agricultural Labor - Provision for Use of Inmate Labor In Production, Harvesting and Processing of Agricultural Products - Revision to Code/Technical Correction.. **Chairman Lodge** introduced the bill for a print hearing. This proposed legislation would revise earlier legislation previously proposed in 2014 and eliminate the words "perishable" and "foods".

MOTION:

Vice Chairman Lee moved to send **RS 25761C1** to print. **Senator Lakey** seconded. The motion carried by **voice vote**.

Senators Lakey, Potts and Burgoyne departed.

PRESENTATION:

State Public Defense Commission Presentation by **Kimberly Simmons**, Executive Director of Idaho's State Public Defense Commission presenting. **Director Simmons** emphasized the focus of the presentation would cover 2017 as well as an agency overview. She noted the legislative component on the bills before the Committee would be addressed separately.

Director Simmons introduced Kelly Jennings who would cover a portion the presentation. She recounted the year in review with it's primary cost overview, grants, the ELF program and training of defense attorneys. **Director Simmons** elaborated on the Extraordinary Litigation Fund (ELF). She emphasized creating standards for public defense and negotiating certain bills. She noted how the agency accomplished various goals via monthly illustration.

Director Simmons referred to data regarding cost of public defense and drew attention to the rise of cost when compared to previous years. The data for 2017 has not yet been projected, as the counties have not completed filing their respective applications. She stated that costs will be adjusted to reflect those applications. The Director provided a breakdown of the annual expenditures as compared to the rising costs of 2016. She noted that the same amount of Joint Incentive Grants is expected to be disbursed in 2018.

Director Simmons elaborated on the Indigent Defense Grants which in 2017 posed a slightly different application requirement; applicants must presently provide an analysis regarding how the funds requested will be used. She noted the response obtained was that counties intended and planned to use them essentially conformed with how they were used. She also outlined the different standards in applicability to the disbursements of funds.

Director Simmons reviewed procedures on use of fund and attorney feedback of the Extraordinary Litigation Fund. She also noted the significance of funds availability from the various counties with respect to budget exhaustion, training defending attorneys and the relevant training session.

Director Simmons passed the presentation to Kelly Jennings.

Kelly Jennings, Deputy Director of the Idaho State Public Defense Commission discussed the hiring of the Regional Coordinators. She briefly described the regions and the respective roles. Ms. Jennings noted how Regional Coordinators advocate for public defense. **Ms. Jennings** elaborated on concerns regarding unfunded mandates and challenges arising between county and state. She outlined monthly performance calendar of a Regional Coordinator.

Vice Chairman Lee posed a question regarding requirement for rural areas if there were opportunities to volunteer for the assignment.

Ms. Jennings responded that there is lack of attorneys applying. **Director Simmons** interjected that handful of attorneys have too much and don't offer their services. The Regional Coordinators are there to assist as such. The objective of the IPDC is to find other ways to assist prospective defense attorneys.

Senator Hagedorn asked when analysis will be completed. **Director Simmons** stated IPDC contracted with a national expert and a final report may be completed in 14 days.

Senator Hagedorn asked about expenditures associated with case load and what aspect they were based on.

Director Simmons responded that abolishment of the flat fee contract may not have played a role. She noted the current number spike may represent a growing number of defense attorneys. She emphasized pay rate as contributing

factor as well as increased occurrences of felony violence. She directed attention to Felony Case Equivalent Per Primary Defending Attorney noting percentages of hourly contracts for attorney compensation as relating to specific provisions within the contracts.

Senator Hagedorn requested data during the downturn years of 2008-2011 and noted that data should have created more spiking.

Director Simmons elaborated that data collected in 2017 in 12 counties with institutional offices had case to defense attorney representation ratios. She referenced data regarding county statistics collected in 2017 where Felony Case Equivalent (FEC) statistics were derived from an national standard. She noted that cases handled by primary attorneys had greater number of felony cases. She also referenced the case load per county data to illustrate those counties with more than total 150 cases. In closing, she addressed 2018 proposed legislation for this session. A proposed amendment to Idaho Code § 19-850(2)(e) allowing for Board of County Commissioners to apply for ELF which they would otherwise be unaware of. **Director Simmons** referenced Idaho Code § 19-849(1) which provides for two additional commission members. In summation, **Director Simmons** made 2018 Legislative Recommendations.

Vice Chairman Lee thanked **Director Simmons** and asked about data regarding county payout specifically what factored into calculating that number.

Director Simmons responded she was unsure about what causes were contributing to the data spiking.

Chairman Lodge in closing remarked on the importance of electronic distribution and notification of members. All members were in agreement.

Vice Chairman Lee reminded members to review the rules prior to the next Administrative Rule Review to carry out the mandate.

Chairman Lodge recognized **Henry Attencio**, Director of the Department of Corrections, present in the hearing room.

ADJOURNED

There being no further business at this time, **Chairman Lodge** adjourned the meeting at 2.51 P.M.

Chairman Lodge
Chair

Anna W. Jones
Committee Secretary