

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 16, 2013

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Vick, Senators Davis, Mortimer, Nuxoll, Hagedorn, Lakey, Bock, and Werk

ABSENT/ EXCUSED:

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 the meeting to order at 1:30 p.m. and the Secretary called the roll.

PASSING OF GAVEL: **Chairman Lodge** passed the gavel to **Vice Chairman Vick** to present the Rules Review.

Idaho State Police (Fee Rules)

DOCKET NO. 11-0201-1201 **Idaho State Brand Board - Larry Hayhurst**, Brand Inspector, explained that the drop in the number of new brands being recorded and fewer brands being renewed has resulted in a decline of needed revenue. This rulemaking increases fees needed to secure the necessary revenue to properly execute the statutory functions of the Brand Board.

The fees being increased in this rulemaking are as follows:

- Transfer of Brand Fee is increased to \$50
- Renewal of a Recorded Brand (every 5 years) is increased to \$100
- Ownership and Transportation Certificate fee is increased to \$35

There is no negative impact to the general fund as this rule change has the potential to increase revenue approximately \$107,000. The increase in revenue will help cover the rising personnel benefit costs, fuel costs, and mileage reimbursement for private vehicle use.

MOTION: **Senator Mortimer** moved, seconded by **Senator Lakey**, that the Committee adopt **Docket No. 11-0201-1201**. The motion carried by **voice vote**.

DOCKET NO. 11-0202-1201 **Idaho Livestock Dealer Licensing - Larry Hayhurst** explained that the number of Idaho Livestock Dealers and Representatives has dropped over the years resulting in a decline of needed revenue. This rulemaking increases fees needed to properly execute the statutory functions of the Brand Board. The fees increased in this rulemaking are as follows:

- Livestock Dealer fees are increased from \$40 to \$100;
- Livestock Dealer Representative fees are increased from \$15 to \$35.

MOTION: **Senator Lakey** moved, seconded by **Chairman Lodge**, that the Committee adopt **Docket No. 11-0202-1201**. The motion carried by **voice vote**.

PASSING OF GAVEL: **Vice Chairman Vick** passed the gavel back to **Chairman Lodge**.

- RS 21702** **Relating to Producer Licensing - Michael Henderson**, Legal Counsel for the Courts, explained this legislation concerns defects and omissions in the laws and removes language providing that a bail agent's license filed with the clerk of the District Court is deemed proof that such bail agent is licensed. This would repeal the obsolete provision in Idaho Code § 41-1039 (3) as it is obsolete.
- MOTION:** **Senator Davis** moved, seconded by **Senator Werk**, to print **RS 21702**. The motion carried by **voice vote**.
- RS 21703** **Relating to Proceedings in Magistrate's Division - Michael Henderson** explained Idaho Code §§ 19-3939 through 19-3944 concern the procedure to be followed when a misdemeanor conviction is appealed from the magistrate division to the district court. They are now obsolete and in conflict with the provisions of the Idaho Criminal Rules governing such appeals. This bill would repeal these outdated statutes, which will help avoid confusion as to the proper procedure to be followed in these appeals.
- MOTION:** **Senator Werk** moved, seconded by **Senator Nuxoll**, to print **RS 21703**. The motion carried by **voice vote**.
- RS 21704** **Relating to Jury Selection and Service - Michael Henderson** explained this bill corrects an erroneous reference to a subsection in Idaho Code § 2-208, a statute that addresses the procedure for summoning prospective jurors. In addition, the language in Idaho Code § 2-208(5) regarding the circumstances in which a prospective juror may be found in contempt of court for failing to report; and the penalty provided for such contempt is in conflict with the language in Idaho Code §§ 7-601 and 7-610. This bill removes that conflict by amending Idaho Code § 2-208(5) to state that prospective jurors who fail to appear may be subject to contempt proceedings as provided in chapter 6, title 7 of the Idaho Code and in applicable Supreme Court rules.
- MOTION:** **Senator Hagedorn** moved, seconded by **Vice Chairman Vick** to print **RS 21704**. The motion carried by **voice vote**.
- PRESENTATION:** **Idaho Criminal Justice Commission - Brent Reinke**, Chairman, began the presentation by stating that the Commission was established in 2005. The 25 members comprised from three branches of government, county, city and citizen representatives are challenged to reach balanced solutions on critical issues facing Idaho's criminal justice system. He called on several different members of the Commission to speak on specific issues.
- Sara Thomas**, Idaho State Appellate Public Defender, spoke about recommendations from the Commission. She referred to **Recommendation 1**. that would provide legislation that would (a) create a uniform appointment of counsel, (b) a juvenile's right to counsel, and (c) the appointment of counsel: Guardian ad litem. **Recommendation 2**. was for the creation of an interim legislative committee. Their tasks would be to determine the best system for Idaho, examine the cost of changes, and identify the appropriate funding mechanisms. **Ms. Thomas** also talked about human trafficking and the fact that it was a growing problem in Idaho. She said there was a gap in current Idaho Law that might not give provide needed protection.

Ross Mason, Chairman of Children of Incarcerated Parents Sub-Committee to the Idaho Criminal Justice Commission and Regional Director of Department of Health and Welfare for the ten southwestern counties, spoke about how the Sub-Committee had reformed and was taking another look at what was being done and why. The Committee is designed to improve the lives of children of incarcerated parents and try to stop the cycle of those children going into prison as their mother or father has done in the past. They have provided a tool kit, a document to be used primarily by teachers and counselors, to assist them in answering concerns of children whose parents may be incarcerated for a long period of time. There is also a pilot program that is now underway in the Valley View School District in Canyon County and the Boise School District. This pilot program involves second, third and fourth graders and is an effort to improve the lives of children by socializing in a better way, improving their attendance at school, and improving their behavioral issues if they have any. He said if the pilot works and if there is information that is effective then it can be expanded to other districts. The majority of these children are with a family member and are in elementary school.

Senator Werk asked how many families were impoverished due to incarceration. **Mr. Mason** said that the lower economic class was the primary cause of prison. **Senator Lakey** questioned **Ms. Thomas** about the financial decision whether to appoint a juvenile and if a reimbursement from the parent is considered in that. Also, if it was similar to the adult criteria. **Ms. Thomas** said it was not the same criteria because one consideration is that the parents interest in the child have changed. The child always has a right to representation. **Senator Lakey** said he was questioning the reimbursement afterward and if there was consistent criteria to determine whether the parents have to reimburse. **Ms. Thomas** replied that it was based on their ability to pay; there were not specific standards. **Senator Lakey** suggested that there should be.

Sharon Harrigfeld, Director of Juvenile Corrections, explained the Results First program which uses a model developed by the Washington State Institute for Public Policy but customizes it to Idaho's laws and data. The motivation behind this is to achieve effectiveness and efficiency of the criminal justice system and encourage dialog among respective branches of government . She further stated that Results First was a three step research approach:

1. Locate real world evaluations
2. Estimate the taxpayer and crime victim benefits and costs of programs
3. Determine how alternative programs would affect prison demand, public spending and crime

This analysis will help identify which programs work and which do not; calculate the potential returns on investment of funding alternative programs; rank programs based on their projected benefits, costs and investment risks; identify ineffective programs; and predict the impact of different policy options. The intent is to have better statewide results and a more efficient use of taxpayer dollars.

ADJOURNED: There being no further business, **Chairman Lodge** adjourned the meeting at 2:40 p.m.

Senator Lodge
Chairman

Leigh Hinds
Secretary