

MINUTES  
**JOINT FINANCE-APPROPRIATIONS COMMITTEE**

**DATE:** Tuesday, February 04, 2014  
**TIME:** 8:00 A.M.  
**PLACE:** Room C310  
**MEMBERS PRESENT:** Senators: Co-chairman Cameron, Keough, Mortimer, Vick, Nuxoll, Johnson, Bayer, Schmidt, Lacey  
Representatives: Co-chairman Bell, Bolz, Eskridge, Thompson, Gibbs, Stevenson, Miller, Youngblood, Ringo, King  
**ABSENT/ EXCUSED:** Thayn  
**STAFF PRESENT:** Burns  
**CONVENED:** Chairman Cameron convened the meeting at 8:00 a.m.

**AGENCY**

**PRESENTATION:** **OFFICE OF THE ATTORNEY GENERAL**

**PRESENTER:** **Lawrence Wasden, Attorney General**

To view the presentation, please click on the following link [Office of the Attorney General](#)

**Mr. Wasden** is serving his third four-year term as Attorney General. Three facts about the Attorney General's Office: it provides cost effective legislation, employs skilled employees, and given the proper resources, the State's legal interests will be protected. In FY 2013 the appropriation for his office was \$19,225,400 and \$46,255,100 was returned; in other words for every dollar spent, \$2.72 was returned. Money recovered comes from estate recovery, Medicaid fraud, Consumer Protection, Tobacco Master Settlement Agreement (MSA) and a few other areas; money recovered is then appropriated by the Legislature. Between FY 2010 and FY 2013, the average appropriation was \$18,233,100 and the average return was \$49,533,400.

The Attorney General's Office is continually asked to take on more responsibilities. One of the latest examples is a bill being introduced this session which would require his office to conduct public corruption investigations at the county level. One of his FY 2015 budget requests is for one additional deputy and two additional investigators to handle this type of workload. He has to determine if he has the available resources to successfully prosecute a case. Since he has limited resources, he cannot always take additional cases. **Mr. Wasden** believes the State must make prosecuting county corruption a budget priority. Before the recession the Special Prosecution Unit had 3 prosecutors and 4 investigators; now there are two prosecutors and two investigators.

He also discussed the cost of State in-house counsel versus outside counsel. The median prosecutor's salary in his office is \$36.39 per hour, SWCAP is \$54.37 and a private attorney costs between \$125 and \$250 per hour. He would like to bring more legal service in-house because it is more cost effective. Two examples were the Grouse Creek case where his office successfully defended the Public Utilities Commission (PUC) from appeal in the Idaho Supreme Court saving Idaho ratepayers \$236 million over a 20-year period. In the Assoc. of Public Agency Customers case, his office successfully represented the PUC in multiple Ninth Circuit appeals from 2007 to 2013 where 655,000 Idaho utility customers preserved over \$350 million in BPA credits.

Some accomplishments of the Attorney General's office were: 1) responsibility for enactment of last year's Concealed Carry License legislation, (Idaho Code Section 18-3302K) that allows reciprocity with other states, 2) expanded the Idaho Crimes Against Children (ICAC) Unit which allowed the AG's office to transfer \$2,014,900 from the Consumer Protection fund in its first year of operation, 3) Medicaid recoveries amounted to \$3,824,000 in the Medicaid Fraud Unit and \$5,453,500 in Medicaid Estate Recovery, 4) Consumer Protection recoveries totaled \$12,047,800, and 5) continued payments under the Tobacco Master Settlement Agreement (MSA) totaled \$24,912,400 to date. Tobacco recoveries remain in serious jeopardy because tobacco companies continue withholding millions of dollars in payments and are hoping to eliminate several million dollars in future payments. So far Idaho has successfully protected 100% of its MSA payments. However, the tobacco companies are planning a new round of litigation contesting Idaho's payment and Idaho risks losing millions of dollars unless there is additional funding.

Most recently Mr. Wasden's office was involved in a lawsuit regarding St. Luke's Hospital's acquisition of the Saltzer Medical Group which became a test case for similar medical mergers. A federal judge recently ruled in Idaho's favor stating that sale violated Idaho's Competition Act. The court has stopped taking claims on the Snake River Basin Adjudication with over 150,000 water rights adjudicated; only about 100 cases remain. In the water management arena, the Idaho Supreme Court has decided all surface and groundwater management cases and provided a better definition of legal principles. Water shortages are expected because of less precipitation which means added risk for curtailment of junior water rights. Last week, Director Spackman of the Department of Water Resources ordered curtailment of approximately 2,300 ground water users.

The Governor's FY 2015 recommended budget request totals \$21,463,700. Mr. Wasden requested a litigation support assistant, a paralegal for Idaho State Police, additional prosecutor support of one new attorney and two investigator positions, continued lump sum authority to address turnover and retention and maximize the State's legal resources, software licensing updates, and additional money for ICAC forensic investigators. The Attorney General's Office provides Idaho's best and most cost effective legal representation.

**AGENCY**

**PRESENTATION: OFFICE OF THE GOVERNOR**

**PRESENTER:**

**Military Division**

**Major General Gary Saylor, Adjutant General**

To view the presentation, please click on the following link. [Military Division](#)

The following members of the Military Division staff in attendance were introduced: Brig. Gen. Dick Turner, Assistant Adjutant General, Air; Brig. Gen. John Goodale, Assistant Adjutant General, Army; Col. Jeff Aebischer, Air Guard Director of Staff; CSM Ken Downing, Senior Enlisted Leader of the IDNG; Nancy Gollaher, State Budget Analyst; Paula Edmiston, Human Resources Manager; Derek Newland, Director of Idaho Youth ChalleNGe Academy; Patrick Lucas, Idaho Bureau of Homeland Security, and Bob Wells, Idaho Bureau of Homeland Security. The five critical priorities for the Military Division are: 1) recruit, train and retain quality soldiers, airmen and State employees, 2) maintain and sustain a relevant Department of Defense Force Structure in Idaho, 3) coordinate statewide disaster prevention, preparedness, response, and recovery, 4) construct and maintain modern facilities for the Idaho Military Division, and 5) intervene in and reclaim the lives of 16–18 year old high school dropouts through the Idaho Youth ChalleNGe Academy.

**Major General Saylor** gave an update on the Idaho Youth ChalleNGe Academy located in Pierce, Idaho. The first class started on January 18, 2014, with 96 students – 81 males and 15 females. Cadets come from 24 of Idaho’s 44 counties and recently completed the 2–week Acclimation Phase. It is a 22–week in-resident and 12–month mentorship program where cadets learn life skills combined with additional education. He also gave an update on Readiness Centers throughout Idaho.

The FY 2015 Governor’s budget recommendation totals \$66,406,000 including \$5,595,800 in General Funds (9%), \$5,273,800 in Dedicated Funds (8%) , and \$54,536,400 in Federal Funds (83%) with 314.8 FTP (an increase of 21 FTP). This budget recommendation will meet the Military Division’s five critical priorities.

**AGENCY**

**PRESENTATION:**

**PRESENTER:**

**SELF-GOVERNING AGENCIES**

**Office of State Appellate Public Defender (SAPD)**

**Sara Thomas, State Appellate Public Defender**

To view the presentation, please click on the following link. [State Appellate Public Defender](#)

The right to appeal a felony conviction is guaranteed by the United States Constitution. The Legislature created the SAPD office in order to reduce the cost of legal representation of indigent defendants upon counties when they appeal criminal convictions but still provide competent counsel. The right to counsel in a post-conviction action is provided by Idaho statute; it is discretionary in felony cases and mandatory in capital cases. Legal representation is an extraordinary burden and the SAPD office helps counties avoid paying high hourly rates for independent counsel. The Capital Crimes Defense Fund (CCDF) was created in 1998 and acts like an insurance program where counties pay an annual premium based on population and then pay a \$10,000 deductible per case and the Fund covers any additional defense costs. Only one Idaho county does not participate.

The SAPD office has a total of 23 employees: 2 Administrative including Ms. Thomas, a Capital Unit with a staff of six and the Appellate Unit has 15 on staff. The Appellate Unit handles direct appeals, Habeas Corpus appeals, and post-conviction appeals. To date in FY 2014 the caseload totals 350. The Capital Unit handles post-conviction proceedings in District Court, consolidated appeals, and interlocutory appeals in post-convictions; there are six active cases in FY 2014.

Supplemental budget funds provided for capital cases are reverted to the General Fund if they are not used for a specific capital case during the requested fiscal year. In FY 2013 SAPD received a \$100,000 supplemental appropriation for the Jauhola case; \$97,100 was returned at the end of the fiscal year because the conflict issue was resolved with only \$2,900 paid to conflict counsel.

The Governor's recommended FY 2015 budget request totals \$2,458,900. The budget request includes SAPD'S request for \$351,800 to achieve salary parity with Deputy Attorneys General; Idaho has previously recognized that attorneys representing the people should be compensated equally with those representing the government.

**AGENCY**                    **DEPARTMENT OF CORRECTION**  
**PRESENTATION:**    **Commission for Pardons and Parole**  
**PRESENTER:**        **Olivia Craven, Executive Director**

To view the presentation, please click on the following link. [Commission for Pardons and Parole](#)

After the introduction of staff, **Ms. Craven** discussed the mission of the Commission which encompasses protection of the public, respecting victims and involving them in the process to fairly assess every offender. The Commission was established in 1969 under the Board of Correction; in 1998 the Commission was placed directly under the Governor and in 2010 became a stand-alone agency; however, it operates in tandem with the Idaho Department of Correction. The purpose of the Commission is to conduct parole hearings, clemency hearings, to release designated offenders into the community on parole, to grant/deny discharges from parole and to process parole violations. The Commission has 32 employees.

The Commission requested and received a \$95,000 supplemental for FY 2014 to cover parole violator extradition costs. Extraditions have increased and, consequently, those expenses have increased and now run between \$85,000 and \$100,000 annually. Idaho is a member of the Interstate Commission for Adult Offender Supervision compact agreement which went into effect in September 2004. Under new rules put in place two years ago, the Commission can no longer decide whether to return an offender to the state; Idaho can order that an offender be returned and the Commission has no say in the matter. A recent medical parole extradition from Nebraska cost \$22,000. To date extradition expenses for 16 offenders has cost \$56,677.50. There are time limits for due process so the Commission cannot wait for the best rates to transport prisoners back to Idaho.

**Ms. Craven** also discussed parole consideration criteria. The definition of parole is the conditional release of an offender from prison. The Commission has to know everything about the individual offender in order to assess risk and to make the best decision for public safety, for the victims, and for rehabilitation of the offender. Each offender's parole plan is one of the keys to success. An example was then given of an offender's journey from incarceration through parole. The process involved when a person violates parole was also discussed; a parole violation does not automatically mean that an offender will go back to prison. In calendar year 2012, 648 prisoners were discharged from parole and 53 were denied discharge.

The Governor's FY 2015 recommended budget request for the Commission for Pardons and Parole totals \$2,642,500.

**ADJOURN:**

Chairman Cameron adjourned the meeting at 10:16 a.m.

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Senator Cameron  
Chair

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Peggy Moyer  
Secretary