

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 23, 2015

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Hagedorn, Senators Davis, Tippetts, Johnson, Bayer, Souza, Burgoyne, and Jordan

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 the meeting to order at 1:30 p.m.

RS 23896 **Senator Schmidt** presented **RS 23896** to be available as an alternative if the preferred bill does not pass in the House.

MOTION: **Senator Hagedorn** moved to send **RS 23896** to print. **Senator Jordan** seconded the motion.

Senate Tippetts asked if there was a unanimous consent request from the Health and Welfare Committee. He also inquired if the bill would go back to the Health and Welfare Committee for a full hearing. **Senator Schmidt** replied that Senator Tippetts was correct and that the unanimous consent was buckslipped Friday.

The motion passed by **voice vote**.

S 1170 **Senator Burgoyne** advised that **S 1170** fills gaps in judicial qualification requirements and creates consistent qualifications crediting military legal work and service as a judge toward experience. Qualifications set forth in this bill require all judicial officials, whether elected or appointed, to be 30 years old, a United States citizen, a legal resident of Idaho for 2 years, in good standing as an active member of the Idaho Bar for 2 years. In addition, magistrate appointees must have 5 years experience and other judicial appointees must have 10 years experience practicing law or holding judicial office. All judges must be registered to vote. **Senator Burgoyne** also enumerated oversights the bill corrects. Under current law, magistrate appointees do not have to be United States citizens or Idaho residents. Justices of the Idaho Supreme Court and the Idaho Court of Appeals do not have to be registered voters. Judicial officers are not required to have a clean ethical record, and judicial and military legal service are not recognized as experience.

MOTION: **Senator Jordan** moved that **S 1170** be sent to the floor with a **do pass** recommendation. **Senator Davis** seconded the motion. The motion passed by **voice vote**.

H 92 AA **Senator Davis** announced that he would be presenting this bill in place of Mike Brassey. The bill updates the Uniform Fraudulent Transfer Act and amends the name to the Uniform Voidable Transactions Act. In this bill terms are clarified and rules are established governing the allocation of the burden of proof with respect to claims.

MOTION: **Senator Burgoyne** moved to send **H 92aa** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion passed by **voice vote**.

GUBERNATORIAL APPOINTMENT **Colonel Ralph Powell**, appointed Director of the Idaho State Police (ISP) for a term commencing March 18, 2015, and expiring on January 7, 2019, provided a summary of his background. He stated that he has enjoyed his work with ISP from starting as a State Trooper to his current position as Director. He recounted the progress ISP has made over the past few years. He also identified the goals ISP has set and the progress made toward achieving those goals. He feels morale is high and integrity is held as the standard.

Vice Chairman Hagedorn asked Colonel Powell what he anticipated as the greatest challenges in the next five and ten years, as well as possible resolutions for those challenges.

Colonel Powell responded that in the next year the mandatory fitness program needs to be in effect. There is an ongoing challenge of competing with other law enforcement agencies for employees. Salary is a critical area in retaining good employees. Increasing the level of rapport within ISP and establishing additional full time employee positions will help with employee retention. **Colonel Powell** emphasized that improving collaborative efforts with agencies and task forces, as well as the FBI, will help overcome some of the challenges.

Senator Tippetts thanked Colonel Powell for his service to Idaho. He then referred to a comment from a media source stating that Colonel Powell was at the center of the dispute with Corrections Corporation of America (CCA) over understaffing and overbilling when that organization was running the largest prison in Idaho. **Senator Tippetts** then asked the Colonel to explain his involvement in that situation.

Colonel Powell replied that he was at the center of the situation and the one making the final decision, but the real question should address how he was involved. The Idaho Department of Correction (IDOC) came to the ISP requesting an independent investigation regarding discrepancies in records submitted by CCA. Three problems were identified presenting the question of whether or not to conduct a criminal investigation. That decision was ultimately Colonel Powell's.

The controversy surrounding his decision concerned whether or not Colonel Powell made the decision with no counsel or if other stakeholders provided input. **Colonel Powell** emphasized that all stakeholders were involved in making the decision. Included were the director of IDOC, the prosecuting attorney's office, Ada County Sheriff's Office investigations team, and deputy attorney generals from IDOC and ISP, and two ISP majors who are experts in investigations. The issues identified during the investigation related to the fulfillment of the contractual agreement between IDOC and CCA. The attorneys advised that this was a case of breach of contract which is a civil matter rather than a criminal matter.

Colonel Powell then addressed the issue of fraud and why there had not been a criminal investigation. The investigative experts and the attorneys pointed out that the first action should be to conduct a civil investigation regarding the breach of contract while analyzing the process to determine if there was criminal activity. **Colonel Powell** advised that he agreed and followed this counsel. During the civil investigation he made it clear that if a criminal act became apparent, the ISP would begin a criminal investigation.

Senator Burgoyne inquired to what degree statutory shortcomings made law enforcement's job more difficult.

Colonel Powell conceded that he is not well versed on contractual and civil issues. ISP started with IDOC being the source of an abundant amount of information. ISP had complete access upon request.

Chairman Lodge thanked Colonel Powell for hosting the Committee at ISP's headquarters.

**MINUTES
APPROVAL**

Senator Souza moved to approve the Minutes of February 9, 2015. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**MINUTES
APPROVAL**

Senator Johnson moved to approve the Minutes of February 20, 2015. **Vice Chairman Hagedorn** seconded the motion. The motion passed by **voice vote**.

**CLOSING
REMARKS**

Chairman Lodge recognized Assistant Secretary Barbara Lewis, Intern Sy Nebeker and Page Savannah Martin and thanked them for their assistance to the Committee during the session.

ADJOURNMENT

Chairman Lodge adjourned the meeting at 2:22 p.m.

Senator Lodge
Chairman

Carol Cornwall
Secretary