

MINUTES

## HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE

**DATE:** Monday, January 21, 2019

**TIME:** 1:30 P.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Dayley, Vice Chairman Chaney, Representatives Kerby, Amador, Zito, Zollinger, Ehardt, Scott, Goesling, Hartgen, Marshall, Ricks, Troy, Young, Gannon, McCrostie, Wintrow, Davis

**ABSENT/  
EXCUSED:** Representative Kerby

**GUESTS:** Barry Wood, Idaho Supreme Court; Rep. Pricilla Giddings

**Chairman Dayley** called the meeting to order at 1:32 p.m.

**Chairman Dayley** reviewed options for using the electronic committee folders.

**Paul Headlee**, Division Manager, Legislative Services Office (LSO)/Budget and Policy Analysis, presented to the Committee a state level overview and detailed how the state's budget is built. He said the Budget Analysis office is neutral and lays out the Governor's budget on one side and the agency's budget on the other side. He also reviewed the Governor's recommendations and said the Joint Finance and Appropriations Committee (JFAC) looks at a three-year window against six decision making benchmarks.

In answer to committee questions regarding citizen involvement in the budget process, **Mr. Headlee** stated the LSO Audit Division works with agencies who take public comment to ensure funds are being spent according to statute. He further explained that the stabilization funds were invested by the State Treasurer's office.

**Jared Hoskins**, Principal Analyst, LSO / Budget and Policy Analysis, stated there are seven agencies assigned to Law and Justice, but due to time constraints he only presented a budget overview of the Courts; Department of Corrections and Public Defense Commission. In answering Committee questions, Mr. Hoskins reviewed the timeline and process for developing and refining the budget. He described how and when requests come in from the agencies and when the Governor provides his budget recommendations. He said not all line items requested from the agencies are recommended by the Governor.

**Chairman Dayley** reiterated to the Committee that the Budget Office is available any time to answer questions. The Speaker has asked the Committee's to review germane agency budgets so they are more informed when they are presented on the Floor of the House. In answer to a question from the Committee, Chairman Dayley said a budget bill can be amended just like any other bill, but the process is a little different.

**Chairman Dayley** turned the gavel over to **Vice Chairman Chaney**.

**HR 1:**

**Chairman Dayley** presented **HR 1** and reviewed the history of how Rule 76 came to be. Prior to 1990 when the rule was implemented, the only source for dealing with ethics matters in the Senate and House was the Idaho Constitution under Article III, section 11. This is an open ended process that says a member could be expelled for good cause upon two-thirds majority vote. He stated Rule 76 was last updated in 2013. He explained the adoption of the Legislature's Respectful Workplace policy prompted the need for a process to refer and manage complaints that came through the Respectful Workplace process to the Ethics Committee. As a result, the Chief Clerk of the House was charged with the responsibility to see if anything needed to be done to support the new policy and identify anything else that needed to be updated or changed. Chairman Dayley said phase one and two of the Ethics Committee selection process was not changed, and the Ethics Committee for this Legislative session was established by the twelfth day, as required.

Concerns were expressed by committee members regarding the recordkeeping and storage of complaints brought before the Ethics Committee and if those complaints could be used for political purposes. **Chairman Dayley** explained that the Chief Clerk of the House contacted several other states to see how their legislatures addressed ethics and Respectful Workplace violations. **Carrie Maulin**, Chief Clerk of the House, answered questions saying the Respectful Workplace policy has provisions in place for recordkeeping which is retained in a personnel file. If a Respectful Workplace claim were moved to the Ethics Committee, the Ethics Committee could establish a schedule for records retention.

In answer to committee questions, **Chairman Dayley** stated the Respectful Workplace policy covers more than legislators, but currently there is not a clearly defined way in Rule 76 to accept and address Respectful Workplace complaints against legislators. This is why the ability to forward complaints to the Ethics Committee needed to be established. He said the Ethics Committee can establish rules of how the committee operates, independent of the Respectful Workplace Policy Committee.

In answer to committee questions regarding funds available for managing Ethics Committee claims, **Chairman Dayley** said it is within the legislative appropriations for the Speaker to request those funds and to have those funds available for Committee purposes.

More concerns by the committee were raised regarding the Ethics Committee being able to initiate a complaint and also being able to judge the complaint and provide a punishment, if necessary. Concerns were also raised regarding the complainant being able to know who lodged a complaint against them, and what notification is given to the Speaker about a complaint sent to the Ethics Committee. **Ms. Maulin** said the language in the rule was chosen to reflect civil procedures, not criminal procedures.

**MOTION:**

**Rep. Zollinger** made a motion to **HOLD HR 1** for time certain, February 5, 2019.

**Rep. Giddings** reviewed several of her concerns with the legislation, including the vagueness of language for a complex issue, and asked if this rule was compared and standardized with the Senate's rule. She also addressed how the rule does not reference the procedure if the Ethics Committee violates the process and how this rule seems to consolidate power and gives the Ethics Committee the ability to be the enforcement arm of the legislature. She also stated concerns with the ability of the Committee to make a public statement, but the accused being retained under strict confidentiality. She spoke **in support** of the motion to hold the resolution for further review.

In closing, **Chairman Dayley** said the Committee brought forward good points. The current Ethics Committee rule is in place, and if a Respectful Workplace complaint came through, it would go through the Speaker, who would refer it to the Ethics Committee. He said this is not a perfect process and they may not have the ability to create a perfect rule, but it is a place to start. He did speak **in support** of holding the resolution for further review.

**VOTE ON THE MOTION:**

**Motion carried by voice vote.**

**Vice Chairman Chaney** turned the gavel over to **Chairman Dayley**.

**Chairman Dayley** requested those who would like to review the legislation and provide further comment to let him know.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 3:55 p.m.

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Representative Dayley  
Chair

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Wendy Carver-Herbert  
Secretary