

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 04, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Senator Lodge

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 Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Lee.

S 1146 **Senator Todd Lakey**, District 12, introduced **S 1146** stating that it relates to the judicial compensation for Idaho's judges. He explained that the Change in Employee Compensation Committee recommended a 3 percent increase for all other State employees. The same 3 percent was incorporated into this legislation regarding the judicial compensation formula. Judges salaries are set by statute. It sets the Supreme Court salary and then follows down to the other court levels. Each judge receives the same salary amount based on the dollar figure below the Supreme Court's salary. In this case, each judge will receive a \$3,800 increase in compensation. This will only apply to the judge positions that are currently in place.

DISCUSSION: **Vice Chairman Lee, Senators Lakey, Nye and Burgoyne** all indicated a possible conflict of interest pursuant to Senate Rule 39H due to their professions and the profession of Vice Chairman Lee's husband but intended to vote.

MOTION: **Senator Burgoyne** moved to send **S 1146** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

DISCUSSION: **Senators Anthon and Burgoyne** expressed how important it is to pay judges for the service they render. The compensation they receive sends a message of expectations. Judges should be valued for what they do and should be compensated accordingly.

VOTE: The motion to send **S 1146** to the floor with a do pass, passed by **voice vote**. **Vice Chairman Lee** indicated that the Committee would hear **RS 27010** before **H 113** when Representative Erpelding arrived because he was testifying in a House committee.

RS 27010 **Senator Lakey** introduced **RS 27010** regarding drug trafficking statutes. The reason for the RS was to promote discussion. Concerns have been expressed in regard to heroin use and the quantities involved. They have discussed the question of whether two grams is for personal use or involved in dealing a controlled substance. Law enforcement felt that the two gram quantity often does reflect that someone is also dealing the substance, but they also recognize that the amount is at the lower end. A proposed compromise would be to increase the minimum quantity to five grams or more in the first tier, increase the quantity in the second tier to ten grams or more, and reduce the second tier time frame from ten years to five years. Fentanyl is much more dangerous than heroin and is becoming an increasing concern, resulting in it being included in the trafficking section.

MOTION: **Senator Anthon** moved to send **RS 27010** to print. **Senator Burgoyne** seconded the motion.

DISCUSSION: **Senator Nye** questioned the wisdom of either getting rid of or changing the mandatory minimum language. **Senator Lakey** stated that this RS is the proposed compromise, it does not repeal the mandatory minimums, but proposes an adjustment in quantity to help make sure it covers those that are dealing and reduces some of the sentences.

Senator Burgoyne stated his concern that fentanyl was included. He questioned how that would be handled with fentanyl also being used as a prescription drug. He said that his understanding was that even a miniscule amount might trigger the highest penalty. **Senator Grow** asked if this RS covers marijuana, cocaine, and methamphetamine. **Senator Lakey** indicated that there were provisions in existing code covering those drugs.

VOICE VOTE: The motion passed by **voice vote**. **Senator Nye** requested that he be recorded as voting nay.

PASSED THE GAVEL: Vice Chairman Lee passed the gavel back to Chairman Lakey.

H 113 **Representative Matthew Erpelding**, District 19, stated that **H 113** addresses partially paid wage claims. Those wages are different than overtime or wholly unpaid wages. This statute states that if no wages are paid, there is a statute of limitations of two years to be able to get those wages back. If only a part of the wages are paid, the statute of limitations is six months. The most common wage issue is a difference in the rate the employee receives and the rate the employer pays. It could also be a time reduction or a deduction for equipment given to the employee. The employee may not have known the employer was going to deduct it from his check. Another wage issue results when an employer pays the employee less than was anticipated because he wasn't satisfied with the quality of the work being done. These differences are usually reported on Monday after the Friday payday and when they are filing their taxes. Under current law, an individual must file a wage claim within six months of the accrual of the cause of action **H 113** would extend that time to twelve months. The Idaho Department of Labor requires the employee to show proof that they have been shorted to open a claim and the claims are required to be less than \$5,000. If a false or fictitious claim is filed, it is punishable by \$1,000 or six months in prison. There is very little enforcement on the side of the employer. By raising the statute of limitations from 6 months to 12 months, it would create a little more fairness in wage claims.

MOTION: **Senator Anthon** moved to send **H 113** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 1:50 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary