

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, February 24, 2021

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Ricks, Senators Lodge, Lee, Anthon, Thayn, Zito, Burgoyne, and Wintrow

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

**Chairman Lakey** stated that **H 41** would be moved to the beginning of the Committee rather than the end.

**H 41** **Relating to Private Foundations and Charitable Trusts. Representative Kevin Andrus** stated **H 41** would ensure that foundations and charitable trusts have a secure framework on which they can rely for disclosing information. He added that there is a current trend in which government officials require more information than previously requested from private organizations, and this legislation would preclude that from happening to private foundations and charitable trusts in Idaho. **H 41** would make it so that a government agency's request for more information would have to go through the Legislature and that the government agencies could not request any more information than is required by law.

**DISCUSSION:** **Senator Burgoyne** expressed concern that there is not a need to tell public officers they can't exceed their legal authority. He also stated that this legislation could be put in every chapter of the Idaho Code and would establish precedent that is unacceptable. He could see this same principle being applied to many other organizations other than charitable trusts. **Representative Andrus** explained that private foundations and charitable trusts are very private about their donors, salaries, and other personal information, whereas some other private entities are not.

**Kate Haas** representing the Philanthropy Roundtable, assured the Committee that whatever information is public, **H 41** will not retract anything that is currently available to the public. This bill is designed to cover a specific purpose for filing and reporting, and informs regulators they must comply with the statute. **Senator Lee** stated that she feels the legislation would reduce transparency. **Ms. Haas** responded that transparency is a priority relating to campaign finance, and this Legislation does not impact campaign finance.

**Senator Anthon** questioned what prompted this legislation. **Ms. Haas** stated that there were specific situations across the country where private foundations and charitable trusts were being asked to disclose more information. **H 41** would create some certainty for foundations and trusts of their responsibilities to disclose information to government agencies in the event those requirements change.

**Senator Lodge** asked where one would find information about an organization such as the Philanthropy Roundtable if everything is confidential. **Ms. Haas** suggested using GuideStar, a database of information from federal filings that are specific to foundations and charitable trusts.

**Vice Chairman Ricks** asked whether the nonprofits at issue are 501(c)(3) corporations. **Ms. Haas** stated that since she is not an accountant, she wasn't sure if they were. She said these foundations and trusts typically receive their funds through a large gift or a series of gifts rather than typical nonprofit fundraising efforts. She suggested they would be a subset of a 501(c)(3) corporation. A discussion was held relating to the differences between foundational and charitable trusts and the more common nonprofit corporations. **Ms. Haas** reiterated that this legislation applies only to foundations and trusts, which by their very nature are nonprofits, but it would not impact other types of nonprofits. Simply adding "foundation" to a name would not provide any company the same coverage granted by **H 41**.

**Senator Burgoyne** added that the legislation sounds as if someone is saying, "An official must obey the law and cannot break the law." If public officials request more information and the foundation or trust denies the request, the dispute will go to the courts for resolution without this legislation. Senator Burgoyne's second concern was that **H 41** may open up other areas where it may become appropriate for officials to ask for more information. There could be a balance of power issue involved.

**MOTION:** **Senator Thayn** moved to send **H 41** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Zito**. The motion failed, with Senators Lee, Anthon, Burgoyne, Wintrow and Chairman Lakey voting nay.

**MINUTES APPROVAL:** **Senator Zito** moved to approve the Minutes of February 8, 2021. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

**DISCUSSION:** **Senator Lee** commented that she saw Judge Southworth's name misspelled. The error was corrected prior to the meeting.

**MINUTES APPROVAL:** **Senator Thayn** moved to approve the Minutes of February 15, 2021. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT VOTE:** **Senator Lee** moved to send the Gubernatorial Reappointment of Melissa Hultberg to the Sexual Offender Management Board to the floor with a recommendation that she be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL REAPPOINTMENT:** **Committee Consideration of the Gubernatorial Reappointment of John Dinger of Boise, Idaho, to the Sexual Offender Management Board (SOMB)**, for a term commencing on January 1, 2021, to expire on January 1, 2024. **Mr. Dinger** outlined his education and employment experience. He spent 12 years working with the Internet Crimes Against Children task force and eight years ago he started doing the hands-on child and adult sex abuse cases. He also served as a member of the ICAC Sex Offender Subcommittee and the Human Trafficking Subcommittee. He said he takes pride in being able to serve on the SOMB because it helps to keep Idaho and its children safe.

**DISCUSSION:** **Senator Wintrow** asked Mr. Dinger what he felt made him so ideal for this position. **Mr. Dinger** replied that he is bringing a prosecutor's viewpoint to the varied SOMB.

**GUBERNATORIAL REAPPOINTMENT:** **Committee Consideration of the Gubernatorial Reappointment of Moira Lynch of Boise, Idaho, to (SOMB)**, for a term commencing on January 1, 2021, to expire on January 1, 2024. **Ms. Lynch** indicated that she started on the SOMB in 2015 and became employed by the Department of Corrections in 1997. She is the District Manager for Probation and Parole in Boise, covering Ada, Boise, Elmore, and Valley Counties.

**DISCUSSION:** **Senator Wintrow** asked Ms. Lynch to share why she was a good match for the SOMB. **Ms. Lynch** replied that she feels a kinship with SOMB's goal of eliminating sexual violence in Idaho's communities. She stated the SOMB calls upon her to give insight because of her position with the Parole and Probation Department, and for insight on budgeting issues resulting from her management skills.

**Chairman Lakey** asked Ms. Lynch to discuss SOMB's future areas of focus.

**Ms. Lynch** said SOMB is focusing on quality assurance. SOMB is making sure that the practices it uses, the evaluators, and the treatment providers are all doing their jobs with the best practices in mind in regard to therapy, treatment, evaluation, and the assessment of sex offenders. They will focus on educating providers and potentially the community.

**S 1133** **Relating to the Guardians of Minors.** **Senator Lee** explained that current statute states that the temporary guardianship authority may not exceed six months unless extended for good cause. **S 1133** requests the opportunity to have one additional six month period added if reasonable cause is shown to the Courts. The intention of a temporary guardianship is to be used in an emergency situation and can be court ordered without proof that a child is in danger. At the end of 12 months, a permanent guardianship must be established. **Senator Lee** requested an emergency clause be added to manage the backlog of cases caused by COVID. She requested that **S 1133** be sent to the 14th Order for possible amendment.

**DISCUSSION:** **Senator Wintrow** questioned why any temporary guardianships would go on for a time exceeding a year. **Senator Lee** suggested it may be because of judicial discretion and a lack of clarity in the statute and to prevent guardianships to become indefinite. **Senator Burgoyne** asked if Senator Lee was aware of a case where a permanent guardian could not be found. **Senator Lee** responded that if a guardian is not found or a temporary guardian is not able, willing, or deemed appropriate by the court, then Child Protective Services would get involved. **Senator Lee** stated this rarely happens.

**MOTION:** **Senator Lodge** moved to send **S 1133** to the 14th Order for possible amendment. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

**S 1137** **Relating to Judicial Salaries.** **Sara Omundson**, Administrative Director of the Courts, said she would answer three questions regarding judicial compensation:

1. Why is it important to attract the best and the brightest of Idaho's attorneys to the bench?
2. How does judicial compensation affect recruitment of the best and brightest?
3. How is a request for judicial compensation developed?

**Ms. Omundson** said Idahoans deserve to have the very best people as judges. Each day they face critical decisions affecting Idaho's population. They face decisions that tear families apart and other times they get the opportunity to improve people's lives. Idaho attorneys recognize the judicial compensation is instrumental in the recruitment and retention of highly qualified, experienced judicial officers with a variety of experiences. Decisions regarding who can serve without economic hardship and with dependents unaffected by financial concern

are often apparent. In a survey conducted by the Idaho Supreme Court in 2018 approximately 65 percent of attorneys list increasing judicial compensation for judges in Idaho as the most common professional consideration. Many of the best and the brightest attorneys already have lucrative law careers and are making a high rate of compensation. To accept a judicial position may, in some cases, cause a decrease of income.

**Ms. Omundson** explained that the Idaho Supreme Court asked her to seek a salary increase similar to the one already approved for other State employees. The Joint Finance and Appropriations Committee approved a 2 percent merit-based increase for state employees for the next fiscal year. Judicial salaries are set in Idaho Code 59-502 and must be staggered to avoid salary compression. Ultimately the increase will be a 1.8 percent raise to the Statewide judicial payroll.

**DISCUSSION:**

**Senator Burgoyne** expressed concern that the judges had reduced salaries last year as a result of the coronavirus and questioned whether the judges would be reimbursed for those funds. **Ms. Omundson** clarified that since Idaho judicial compensation is set in statute, only the Legislature can reduce it. She explained that the Chief Justice asked each judge if they would volunteer to have a portion of their salary withheld to help with a potential financial problem. Nearly every judge volunteered to do so. As 2020 went on, money continued to come into the State and the expected revenue loss did not occur. The court made a retroactive implementation of the judicial salaries effective July 1. All judges were paid exactly what is in statute.

**Senator Lee** stated that her husband is a magistrate judge and asked to have her **39 H** disclosure recorded.

**MOTION:**

**Senator Anthon** moved to send **S 1137** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**

There being no further business at this time, **Chairman Lakey** adjourned the Committee at 2:55 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary