

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 23, 2023

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Foreman, Senators Lee, Anthon, Ricks, Vander Feer (substitute - Hart), Hartgen, Wintrow, and Ruchti

ABSENT/ EXCUSED:

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.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Anthon** moved to send the Gubernatorial Reappointment of Monty Prow as Director of the Department of Juvenile Corrections (DOJC) to the floor with a recommendation that he be confirmed by the Senate. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Lee** moved to send the Gubernatorial Reappointment of Colonel Kedrick Wills to serve as Director of the Idaho State Police to the floor with a recommendation that he be confirmed by the Senate. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL VOTE: **Senator Lee** moved to send the Gubernatorial Appointment of Bryan Nickels to serve as Chief Administrative Hearing Officer to the floor with a recommendation that he be confirmed by the Senate. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment** of Ashley Dowell of Nampa, Idaho as Director of the Board of Pardons and Parole for a term commencing January 2, 2023 and will serve at the pleasure of the Governor.

DISCUSSION: **Senators Wintrow, Anthon, Lee, Ruchti, Vice Chairman Foreman, and Chairman Lakey** asked questions from Director Dowell. **Senator Wintrow** began asking what made her a good match for this position. **Director Dowell** stated that her experience included working for the Department of Corrections, she was a therapist by trade, and had previously worked in prison administration. This position required a problem solver and someone who liked to make things better and those were challenges Director Dowell enjoyed. **Director Dowell** said there was not easy solutions for not using prisons as treatment or mental health facilities. She explained that early intervention was key, education was vital, and a balance between treatment and accountability were all necessary to help keep prisons open for use by those who need them for rehabilitation. **Director Dowell** added the Department of Corrections had made great strides in the ways it prepared people for reentry and were critical for their success. These included: educational programs, job training, expanded community reentry centers, community connection, and employment upon their release. A question was asked about the perception of felony probation as it related to keeping offenders out of prison but still keeping communities safe. **Director Dowell** stated that her department trusted the probation and parole officers taking care of their people to make good decisions. She said they did their best to get those

who need treatment into the appropriate facility while balancing the safety needs of the community. Victim's input was discussed. **Director Dowell** explained there were victims of record or people who felt victimized who are not victims of record. There is an important distinction between the two. Victims of record were given three ways to get information to the Commission. They could write a letter, testify in person, or testify via WebEx. Most importantly, the Commission took the victim's input very seriously. The challenge was to reach a balance between having a period of time in prison on supervision and being released without any supervision. **Director Dowell** added that prison funding was not a factor when decisions on pardons and parole were being made. She concluded by adding that her department worked closely with prosecutors' offices to obtain current victim contact information.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment** of Eric Fredericksen of Boise, Idaho as State Appellate Public Defender for a term commencing August 1, 2022 to expire August 1, 2026. **Mr. Fredericksen** introduced himself and said he had wanted to be a public defender since he graduated from law school and had been lucky enough for that to have happened.

DISCUSSION: **Senator Wintrow** asked if Mr. Fredericksen would share a few of the things that he had improved since he became the State Appellate Public Defender. **Mr. Fredericksen** responded that he quickly learned that keeping his staff and those he worked with happy was the key to a successful office. That included raising salaries and allowing flexible schedules for family time for his staff. **Senator Anthon** questioned Mr. Fredericksen's assessment of the changes being made to Idaho's Public Defense System. **Mr. Fredericksen** said that since the Supreme Court had stated that the State had the obligation to provide the rights of counsel to its citizens, then the State should have some control over the providing of the Sixth Amendment protections. He added he was pleased with the direction the changes were going.

PASS THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Foreman.

DOCKET NO. 11-0702-2201 **Rules Relating to Governing Safety Glazing Material (Chapter Repeal) - Proposed Rule.** **Bill Gardner**, Lt. Colonel, Idaho State Police (ISP) indicated that 99 percent of **Docket No. 11-0702-2201** is in statute and they were asking to repeal the rules governing safety glazing materials. **Lt. Colonel Gardner** stated that there were some clean up changes. In addition, legislation was being processed which stated that plate glass could not act as a windshield. If that legislation should pass, the rule would be entirely removed.

MOTION: **Chairman Lakey** moved to hold **Docket No. 11-0702-2201** subject to call of the chair. **Senator Anthon** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Foreman** asked to have **Docket No. 11-1001-2201** presented by Leila McNeill be heard before **Docket No. 57-0101-2201** presented by Nancy Volle.

**DOCKET NO.
11-1001-2201**

Rules Governing Idaho Public Safety and Security Information System (Fee Rule) - Proposed Rule. **Leila McNeill**, Bureau Chief, Criminal Investigation, Idaho State Police (ISP), explained that the Idaho Public Safety and Security Information System was commonly referred to as ILETS. It was a telecommunication network that connected all Idaho law enforcement together. It played a vital role in connecting Idaho to other states criminal history information and to the FBI National Crime Information Center. **Chief McNeill** discussed that the ILETS Dedicated fund was designed to have the costs of the system paid by the users. Without passing on a fee increase to them, the ILETS fund would not be able to continue to sustain itself. ILETS fees have remained stable for community users but rising costs have increased and those costs have been absorbed by using the fund reserve. The fee structure used had been to charge the larger agencies the most so that the smaller agencies could all afford to use the services. The smallest agencies make up about two-thirds of the ILETS users. Larger agencies were seeing a large increase, the smaller agencies were seeing a 100 percent increase in their fees.

DISCUSSION:

Senator Lee questioned why negotiated rule making was not done. **Chief McNeill** responded that it had been and was not sure why the records did not reflect that. She volunteered to provide evidence to show that it had been completed. **Senator Lee** commented that she understood the fee increases and the demands did not seem unreasonable. Her biggest concern was that nothing had changed since 2014 and then this huge increase all at once. **Chief McNeill** stated there was a discussion in their meetings but the decision was made to make the increase and get it done.

MOTION:

Chairman Lakey moved to approve **Docket No. 11-1001-2201**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

The general consensus from the Committee seemed to be that ILETS was a vital part of the Idaho State Police Department and funding was required to keep it viable. No one wanted to have fees raised, particularly in rural communities and especially in such large amounts, but the Committee felt the increase was needed. The Committee agreed that smaller fee increases more frequently would have been a better option than such a large increase after such a long time with no increase.

**DOCKET NO.
57-0101-2201**

Rules of the Sexual Offender Management Board (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. **Nancy Volle**, Program Manager, Sexual Offender Management Board, explained that this rule chapter was on the schedule to be repealed and replaced during this Legislative session. The rule moves all fee information under the same rule, removes the description of the level of discipline and information about how to file a complaint against a provider. Such information will be located on a website. The pending fee rule does not create any new regulatory measures, and there will be no impact on the general fund as a result of the rule making. Negotiated rule making was carried out.

DISCUSSION:

Senator Wintrow asked if Ms. Volle would go over the high level changes in her docket. She explained that many of the changes were repetitions and duplications that were found elsewhere in the docket or in Idaho Code. **Ms. Volle** explained that the level of changes Senator Wintrow questioned were made at a level where Ms. Volle was not involved. **Senator Anthon** questioned the information relating to disciplinary actions taken. **Ms. Volle** assured him that their standards would still have the detailed information portion where the board may deny, suspend, revoke, restrict or otherwise monitor certification. Their standards would be found on their new website. She stated there was no change in this docket that would provide the board with any more power or

authority than they currently had. The area of concern just eliminated some of the language from the rules to try to shorten it and make it more user friendly.

MOTION: **Senator Wintrow** moved to approve **Docket No. 57-0101-2201**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Foreman passed the gavel back to Chairman Lakey.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:35 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary