

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, February 01, 2023

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

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Foreman, Senators Lee, Anthon, Ricks, Hart, Hartgen, Wintrow, and Ruchti

**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 & Rules Committee (Committee) to order at 1:30 p.m.

**RS 30160** **Relating to Rental Fees. Senator Rabe** explained this legislation was drafted to make rental fees more reasonable, including those for late rent payments. **RS 30160** was created with the intention of establishing best practices for landlords and property managers in State Code to increase consumer protections, and improve transparency. Landlords would not be able to charge fees that exceeded what was enumerated in the rental agreement, and would be limited to fees that were reasonable.

**DISCUSSION:** **Chairman Lakey** noted similarities between this proposal and one introduced in the past, and inquired about the status of a consensus between stakeholder groups. **Senator Rabe** identified the Idaho Apartment Association, the National Association for Property Managers, and the Idaho REALTORS as being in favor of the proposal. **Vice Chairman Foreman** posed a question of whether it was the State's responsibility to tell a landlord or property manager their rental agreements were not reasonable when there had already been an agreement. **Senator Rabe** noted the elimination of a requirement that property managers must be required to be licensed realtors in 2016, and the unintended consequences had on the industry, so now they have taken steps to try and eliminate bad actors. She also noted it was not the government bringing this proposal, rather it was the industry by way of the legislative process. **Vice Chairman Foreman** expressed some concerns with the proposal, mainly that there were already legal mechanisms in place for this purpose. He noted, however, that the intent was good and wanted to express appreciation for the proposal. **Senator Rabe** responded by citing an Idaho Asset Building Network survey that identified at least 30 non-profits engaged in housing issues in Idaho, most of whom concluded that the exploitation of renters was their greatest concern, and how a print hearing would be appropriate so the Committee could receive input from them. **Senator Wintrow** expressed her desire to get this proposal a print hearing so the Committee can learn from landlords and other stakeholders the experiences and conversations they had that resulted in their desire to find a legislative solution to these problems. **Senator Lee** also communicated a desire to hear from landlords about their challenges, and why existing contract law had not done enough for both landlords and tenants. **Senator Hart** opened his comments by stating he would support the bill getting a print hearing. He followed up with a story about a personal experience of renting out an office space owned by a known party that ended up turning ownership over to someone new that issued a five-day eviction notice. He noted that, had protections not been in Statute, he would have not gotten the eviction changed to the statutory

30 days. **Senator Anthon** stated that he was hesitant when discussing proposals that could increase government involvement, but would support giving the bill a print hearing. He then posed a question about how the bill, if signed into law, could negatively affect existing rental agreements.

**MOTION:** **Senator Wintrow** moved to send **RS 30160** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Foreman** asked to be recorded as voting nay.

**PRESENTATION: Introduction of Participating Judges. Honorable Juneal Kerrick**, Senior District Judge, Administrative Office of the Courts. **Judge Kerrick** introduced herself and her fellow judges.

**PRESENTATION: The Courts and the Counties: A Partnership. Honorable Dane Watkins, Jr.**, Administrative District Judge, 7th Judicial District, began his presentation by crediting the collaboration between many parties for the efficiency of the judicial system in Idaho, and how he hoped to make Idahoans proud of the effective use of their tax dollars. He noted that, during the height of the Pandemic and with the help of the Supreme Court, everyone was able to work cooperatively and conduct over 42,000 hearings.

**DISCUSSION:** **Chairman Lakey** inquired about "shared employees" that work for both a county and the State, and what the Judge's thoughts were on that process. **Judge Watkins** responded by outlining the practice used in 7th Judicial District. Counties within the District shared costs for services, but not all districts did the same. In his district, the State performed a lot of the management duties, while many employees worked for their county too. **Senator Ricks** asked about the current workload in the 7th Judicial District and to what extent remote proceedings had continued following the Pandemic. **Judge Watkins** responded by commending platforms like Zoom for streamlining the legal process, and cited many conversations with judges and attorneys that praise it for expediting proceedings and saving money. He did say there were hearings that were better suited for a courtroom. He spoke to the nature of modern cases becoming increasingly complex, and required much more resources. **Senator Ruchti** inquired what elements of the legal process he believed virtual platforms were best suited for. **Judge Watkins** replied witness testimony, efficiency, and cost savings. **Senator Ruchti** followed up with a question about how a jury would come into play. **Judge Watkins** told the Committee that Bonneville County was selected for a pilot program for jury selection had proven to be modern and efficient. **Senator Hart** asked if the Judge could explain the difference in responsibilities between the Chief Justice of the Supreme Court and his role. **Judge Watkins** spoke to there being some similarities, but the scope of his being limited to the 7th District.

**PRESENTATION: Cybersecurity and the Courts. Honorable Eric Wildman**, Administrative District Judge from the 5th Judicial District. **Judge Wildman** began by speaking to the importance of cybersecurity and the courts since, in October 2018, the Courts transitioned to a paperless, electronic filing and case management system that was hosted in each of Idaho's 44 counties. In 2021, the Twin Falls County network was compromised by a cyber attack by way of ransomware originating out of Russia that warranted physically disconnecting anything connected to the Network. While working to recover from the attack, his District received laptops and support staff from the Supreme Court to assist as they tried to resume operations. The significance of the attack resulted in Judge Wildman having to issue an administrative order at the beginning of August that would limit court operations to emergency matters and hearings. This order remained in place until the 19th of August, when new servers were installed and the network was restored. However, the ability to access records was lost for around five months. The Supreme Court had been working with a third party consultant to implement best practices and find long-term technology solutions that harden cybersecurity in each of the 44 counties

in Idaho. As a part of its FY24 budget request, the Supreme Court had requested short-term funds to integrate more robust cybersecurity software [Odyssey] to protect its case management systems.

**DISCUSSION:** **Senator Ricks** asked where the bulk of the cybersecurity responsibilities would lie should the Supreme Court integrate a new, more secure case management software. **Judge Wildman** outlined the organizational structure of this proposal. The Chief Security Officer and their staff within the Supreme Court being responsible for the bulk of the administrative work, while any county personnel would serve in a supporting role. **Senator Ricks** followed up with a clarifying question about the storage of information and whether it would be on the local servers or on the Cloud. **Judge Wildman** confirmed the data storage would be on the Cloud. **Judge Wildman** noted the decision was due to technological improvements they had seen over those years with the Odyssey system, and how a lot of the capabilities they were hoping for were not available at the time. **Chairman Lakey** asked about the nature of ransomware attacks, and how a resolution was reached and how to trust the agitator(s) did not leak sensitive information that was extracted. **Judge Wildman** explained that the nature of those conversations were between the agitator(s), the County, their insurance carrier, and attorneys. **Senator Ricks** asked if, like most government agencies in the State, the Supreme Court's technology services were administered by legislative services and the Department of Administration or if it was done internally. **Judge Wildman** expressed that it was his understanding that technology oversight was handled by the Supreme Court and not another government entity.

**PRESENTATION: The Work of a District Judge.** **Honorable John Judge**, Administrative District Judge from the 2nd Judicial District, described his position as one that required them to serve as an arbiter of facts and law that worked to resolve disputes in accordance with ethical requirements established in Idaho Code. He continued to say there were plenty of misconceptions about judges, and that they must make decisions in accordance with law and fact, rather than what was or was not popular. As of late, his case load has largely consisted of felony, criminal cases involving drugs; civil cases over \$10,000; some property rights work; review of administrative procedures; helping other judges; and more. The work of a judge, he said, was to ensure access to justice, and that it was fair and efficient for the people. It was a challenging role, but rewarding to know that their work had helped people.

**DISCUSSION:** **Senator Lee** asked Judge Judge to explain the independence of the judiciary and what accountability for them looked like. **Judge Judge** explained that they were held accountable in many ways, including, federal law, peers, checks-and-balances with other branches of government, the Judicial Council, and more. **Senator Wintrow**, followed up on the checks-and-balances portion of the Judge's previous response, and the best qualities a voter should look for in a candidate for judge. **Judge Judge** replied, in terms of being a good judge, a lot of the qualities one should look for were personal, such as: being considerate, a good listener, and understanding. **Chairman Lakey**, continuing the discussion of independence of the judiciary, asked if the Judge had any concerns about judicial activism spreading into the judiciary in an increasingly political climate. **Judge Judge** admitted that it could be challenging, particularly because of the pressure the public put on justices and juries, especially in high-profile cases like the one in Moscow. He also said that this problem was not exclusive to the judicial branch, and that it was affecting the other branches as well. The Judge stressed the importance of judges continuing to act impartially and on evidence to maintain the integrity of the courts.

**ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:48 p.m.

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Senator Lakey  
Committee Chairman

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Sharon Pennington  
Secretary

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Kieran Sprague  
Assistant Secretary