

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 15, 2024

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Foreman, Senators Lee, Anthon, Ricks, Hart, Hartgen, Wintrow, 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 1:32 p.m.

INTRODUCTION: **Chairman Lakey** introduced Naomi Foster, the new Senate Page for the Committee. **Ms. Foster** spoke on her interest to study political science and pre-law, and her interest in joining the ROTC in college. **Chairman Lakey** added that Naomi is the daughter of John Foster.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Erik Fredericksen** of Boise, Idaho as State Public Defender, to serve a term commencing September 25, 2023, and expiring December 31, 2026. Mr. Fredericksen worked for the State Public Defender for 10 years before moving into private practice. He argued cases in front of the Court of Appeals and the Idaho Supreme Court. He returned to SPD as Chief of the Litigation Unit before becoming the State Public Defender in 2016.

DISCUSSION: **Senator Lee** asked Mr. Fredericksen to share his understanding of the legislation passed last session. **Mr. Fredericksen** responded that the legislation was aimed to address the Tucker lawsuit and 6th amendment issues. He also addressed the need for more experienced lawyers in juvenile cases, underutilized federal funding, and how Child Protective Act (CPA) cases involved conflict and contract attorneys rather than institutional offices. **Senator Lee** sought clarification, and asked if he believed the legislation passed did not include provisions for child protection cases. **Mr. Fredericksen** confirmed that was his understanding. **Senator Lee** questioned if current efforts aligned with the intended outcomes before the additional lawsuit. **Mr. Fredericksen** assured the Committee that they had sufficient funds for criminal, juvenile, and 6th amendment post-conviction cases. He acknowledged hiring challenges, and stated that recruiting at a state level would provide more resources. He also emphasized the importance of training. **Chairman Lakey** added it was his intent when the legislation was passed to transfer Public Defender responsibilities from the county to the state. **Mr. Fredericksen** responded by saying they needed more local control and experts to handle the cases.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of John Bush** of Boise, Idaho to the Idaho Judicial Council to serve a term commencing July 1, 2023, and expiring July 1, 2027. Mr. Bush, a 4th generation Idahoan from Idaho Falls, studied law and business. He moved to Boise in 1988 and initiated a clerkship with Michael Williams. Since then, he maintained an active plaintiff-centric practice. **Mr. Bush** emphasized the importance of a fair and impartial judiciary to preserve democracy, asserting that citizens must have confidence in a system free of bias. **Mr. Bush** believed his experience and beliefs aligned well with the council's requirements.

DISCUSSION: **Senator Lee** asked Mr. Bush how to balance elected judges while remaining independent from politics. **Mr. Bush** said the process in place worked and promoted the idea of an independent judiciary. He highlighted the importance of a system to fill vacancies, and stated that the council must stay true to constitutional provisions. **Senator Ruchti** followed up and asked Mr. Bush his thoughts on recruiting more attorneys to apply for judgeships. **Mr. Bush** answered and said a solution would be to educate practicing lawyers on what it was to be a judge and the importance of it. **Senator Wintrow** asked what personal qualities Mr. Bush possessed that made him a good candidate. **Mr. Bush** highlighted his years of experience, passion to represent clients, and his established perspective of what makes a good judge due to his appearances in court. **Senator Ricks** asked Mr. Bush if he had seen a judge's party affiliation influence their decisions. **Mr. Bush** said no.

NOTE: IT issues occurred when attempting to connect virtually with Ms. Chavez. The Committee took up print hearings in the meantime.

RS 30869 **Senator Foreman** introduced **RS 30869** that amended Idaho Code 36-1402, which dealt with violations of Idaho Fish and Game code. Nothing in the current code made it so a convicted violator who had not had their privileges suspended nor paid fines, ineligible to apply for a hunting, fishing, or trapping license, tag, or permit. **RS 30869** made a violator ineligible to apply for a license, tag, or permit.

MOTION: **Senator Hart** moved to send **RS 30869** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

RS 30886 **Senator Herndon** introduced **RS 30886** with regards to the notification of rights in a CPS investigation. The Idaho Department of Health and Welfare (Department) must provide parents and guardians with a list of rights when conducting a CPS investigation, upon first contact. If the rights were not given, the investigation would not be disrupted and there would be no consequences for the Department.

DISCUSSION: **Senator Ricks** asked Senator Herndon about S 1106 not passing, and how it compared to this new legislation. **Senator Herndon** answered and said S 1106 was held in committee due to concerns about Section 33, Line 5, which was amended.

MOTION: **Senator Foreman** moved to send **RS 30886** to print. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Reappointment of Liz Chavez** of Lewiston, Idaho to the Idaho Judicial Council to serve a term commencing July 1, 2023, and expiring July 1, 2027. **Ms. Chavez** stated it would be her honor to serve on the Judicial Council again.

DISCUSSION: **Senator Lee** asked Ms. Chavez how to balance the need to be responsive to the values of the state and also operate independently. **Ms. Chavez** responded how valuable the appointment process was, especially midstream, and that waiting for an election, would cause the wheels of justice to turn more slowly. **Senator Wintrow** inquired what personal qualities Ms. Chavez possessed that had come in handy sitting on the council. **Ms. Chavez** spoke about her experience teaching middle school, and the importance of being patient and nimble. She closed the discussion and stated how proud she was of the Idaho Judiciary and the pride she felt sitting on the council.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:20 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Victoria Fitzpatrick
Assistant Secretary