

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, January 13, 2025

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww54/>

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of Kirk Nelson of Blackfoot, Idaho to the Sexual Offender Management Board to serve a term commencing March 26, 2024 and expiring January 1, 2027.	Kirk Nelson
INTRODUCTION:	Introduction - New Senate Page, Anna Calahan, Nampa, Idaho	
<u>11-0301-2401</u>	Rules Governing Alcohol Testing (ZBR Chapter Rewrite) - Pending Rule	Russ Wheatley, Lt. Colonel, Chief of Staff, Idaho State Police
<u>21-0104-2402</u>	Rules Governing Idaho State Veterans Cemeteries (Fee Rule) - Pending Rule	Mark Tschampl, Chief Administrator, Idaho Division of Veterans Services
<u>21-0104-2401</u>	Rules Governing Idaho State Veterans Cemeteries - Adoption of Temporary Rule	Mark Tschampl, Chief Administrator, Idaho Division of Veterans Services
<u>RS 31860</u>	This legislation concerns Strategic Lawsuits Against Public Participation (SLAPPs), and seeks to ensure that public engagement and expression on matters of societal or community interest are not stifled by legal intimidation.	Sen. Lenney

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Lakey	Sen Lenney
Vice Chairman Shippy	Sen Keyser
Sen Ricks	Sen Wintrow
Sen Foreman	Sen Ruchti
Sen Lent	

COMMITTEE SECRETARY

Sharon Pennington
Room: WW48
Phone: 332-1317
Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 13, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, 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 Senate Judiciary and Rules Committee (Committee) to order at 1:35 p.m.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Kirk Nelson of Blackfoot, Idaho, to the Sex Offender Management Board (SOMB)**, to serve a term commencing March 26, 2024 and expiring January 1, 2027. **Chairman Lakey** asked Mr. Nelson to introduce himself and tell the Committee why he was interested in serving on the SOMB. **Mr. Nelson** explained that he had 32 years of experience in law enforcement which included working for the Pocatello Police Department. He began his own polygraph business in the late 1980s. He indicated that approximately 90% of his private practice work focused on the sex offender and the drug court venues.

Senator Wintrow asked what interested Mr. Nelson in serving in this role and what qualities he possessed to enable him to serve. **Mr. Nelson** stated that he felt it was essential that the examiners who worked with these people be as neutral as possible. They needed to be given every opportunity to cooperate with the process so they could successfully pass the requirements. **Mr. Nelson** added that he tried to help his patients clear their consciences so that they could move forward in a productive way. **Chairman Lakey** asked how often a registered sex offender had to participate in a polygraph if they were on parole or probation. **Mr. Nelson** said they had a maintenance test every six months. **Mr. Nelson** added there was a big concern within the treatment community and the Sex Offender Management Board with the polygraph testing of juveniles who were in the system. That population was easily influenced and he stated his strong feelings about not pressuring young people into saying something that was not the truth. His recommendation was to make sure the individuals had the cognitive level ability to make informed decisions about what they did or did not want to talk about. He never forced adults or juveniles to answer questions they were not comfortable with.

INTRODUCTION: **Chairman Lakey** introduced the new Senate Page. **Anna Calahan** shared that she lived in Nampa, Idaho, and attended Compass Public Charter School. Anna had one younger sister who also attended Compass. She was very active in competitive archery and in the 4-H program. The year 2024 was a good one for Anna. She competed in the Archery World Championships, traveled internationally for the first time, and visited five countries. Anna was elected the Idaho 4-H State Teen Association Secretary. She was anxious to turn 18 and receive her Costco membership and continue experiencing new adventures in life.

PASSED THE GAVEL:

Chairman Lakey passed the gavel to Vice Chairman Shippy.

DOCKET NO. 11-0301-2401

Rules Governing Alcohol Testing (ZBR Chapter Rewrite) - Pending Rule. **Russell Wheatley**, Lt. Colonel, Idaho State Police, Rules Officer, stated the review of the law was to remove any unnecessary or burdensome language and clarify the language as needed. They received feedback from the stakeholders about cutting some language. **Lt. Colonel Wheatley** assured the Committee that their changes did not impact the rules, intent, process or application in any way. He stated there had been significant communication with their partners. Nothing was cut that would be catastrophic for anyone in the criminal justice process who would use this rule.

MOTION:

Senator Foreman moved to approve **Docket No. 11-0301-2401**. **Chairman Lakey** seconded the motion. Motion carried by **voice vote**.

DOCKET NO. 21-0104-2402

Rules Governing Idaho State Veterans Cemeteries (Fee Rule) - Pending Rule. **Mark Tschampl**, Chief Administrator, Idaho Division of Veterans Services, stated that this rule expanded eligibility for burial in the Idaho State Veterans cemeteries to traditional National Guardsmen and Reservists. These individuals deserved the right to be buried with their brothers and sisters in arms. Because they were never federally activated for 180 days or more, they did not meet the Federal definition of a veteran, and the Veterans Administration would not provide burial benefits for them. These newly eligible individuals who wished to be buried in one of the State Veterans Cemeteries had to cover the cost of burial equivalent to the VA plot allowance benefit, which is currently \$978, and the cost of a memorial marker which was \$400 for an upright casket marker or \$250 for the other types of interment markers. This amendment also removed redundant language that is already present in Idaho Code.

DISCUSSION:

Chairman Lakey commented that this legislation should pass. The service for the period of time given was still valuable to the country and the community.

MOTION:

Senator Foreman moved to approve **Docket No. 21-0104-2402**. **Senator Ricks** seconded the motion. Motion passed by **voice vote**.

DOCKET NO. 21-0104-2401

Rules Governing Idaho State Veterans Cemeteries. **Mark Tschampl**, Chief Administrator, Idaho Division of Veterans Services, stated this legislation was the exact same legislation as he had just read. This was the temporary rule they operated under last year so they could start doing the National Guard and Reservist interments.

MOTION:

Chairman Lakey moved to approve **Docket No. 21-0104-2401**. **Senator Foreman** seconded the motion. Motion passed by **voice vote**.

PASSED THE GAVEL:

Vice Chairman Shippy passed the gavel back to Chairman Lakey.

RS 31860

Senator Brian Lenney presented **RS 31860** to the Committee. **Senator Lenney** stated this legislation was about protecting free speech in Idaho by discouraging Strategic Lawsuits Against Public Participation (SLAPP). These lawsuits were used by powerful people or organizations to intimidate those who spoke out against them. Idaho is one of only 15 states without SLAPP protection. **RS 31860** would expedite the process for handling frivolous lawsuits and put lawsuits on hold if someone filed an anti-SLAPP motion. If this legislation became a law, it would put a time out on the lawsuit so people did not run up the clock with time and money spent in litigation. It would set rules for dismissing cases that were baseless. **RS 31860** would allow the winning side to recover their legal costs, including attorney's fees. It would deter "litigation tourism." This occurred when people looked for an easy state to win a lawsuit in and chose a state such as

Idaho because it had no SLAPP protection. It included automatic penalties for SLAPP filers.

MOTION: **Senator Foreman** moved to send **RS 31860** to print. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:10 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, January 15, 2025

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww54/>

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Kirk Nelson of Blackfoot, Idaho to serve on the Sexual Offender Management Board for a term commencing March 26, 2024 and expiring January 1, 2027.	
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of Ashley Dowell of Nampa, Idaho, as Director of the Department of Juvenile Corrections to serve a term commencing June 9, 2024.	Ashley Dowell, Director, Idaho Department of Juvenile Corrections
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of Cory Barrier of Boise, Idaho, to the Sexual Offender Management Board to serve a term commencing March 14, 2024 and expiring January 1, 2027.	Cory Barrier
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of Luke Malek of Coeur d'Alene, Idaho, to the State Board of Correction to serve a term commencing January 30, 2025, and expiring January 30, 2031.	Luke Malek
<u>11-1101-2401</u>	Rules of the Idaho Peace Officer Standards and Training Council	Brad Johnson, Administrator, POST, Idaho State Police

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Shippy

Sen Ricks

Sen Foreman

Sen Lent

Sen Lenney

Sen Keyser

Sen Wintrow

Sen Ruchti

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 15, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, 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 Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Wintrow** moved to send the Gubernatorial Appointment of Kirk Nelson to serve on the Sexual Offender Management Board (SOMB) to the floor with a recommendation that he be confirmed by the Senate. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Ashley Dowell of Nampa, Idaho, as Director of the Department of Juvenile Corrections**, to serve a term commencing June 9, 2024. **Ms. Dowell** stated she was very excited to serve in that capacity. She explained her experience included six years in the criminal justice field, first with the Department of Corrections in the Prisons Division, then moved to the Executive Director of Pardons and Parole, and was assigned as Director of the Department of Juvenile Corrections in June of 2024.

Senator Wintrow asked Director Dowell to share her philosophy in Juvenile Corrections, and what her vision and direction for the department would be under her leadership. **Ms. Dowell** responded that her background was in mental health, and she was a licensed therapist. One of her focus points was to address mental health issues and trauma in the kids who were currently in custody. She indicated a concern about the level of mental acuity of some of the youth in their custody. **Ms. Dowell** said her top priority would be to address the mental health of the youth in custody and work toward diverting the children from ever being in a correctional setting in the first place. She also saw a need for public safety working to address some of the criminogenic needs of the kids, and work to make sure they can be released into the community safely.

Ms. Dowell explained how a successful program devised by former Director Prow for deinstitutionalization of kids with status offenses, such as truency or low level offenses, had been. He did a remarkable job of bringing that number down. Another one of Ms. Dowell's focus points was to bring the census back down. She attributed the increase in part to the number of children with unmet mental health needs. Recidivism has also increased in the last year. Ms. Dowell and her staff would work with all stakeholders involved to see how gaps would be filled.

Chairman Lakey inquired about the general appearance of the facilities she had visited. **Ms. Dowell** responded that they were clean and well-kept. It appeared that the staffs were taking good care of the facilities and the youth who were in their custody.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Cory Barrier of Boise, Idaho, to the Sexual Offender Management Board**, to serve a term commencing March 14, 2024 and expiring January 1, 2027. **Mr. Barrier** explained he had been with the Department of Corrections for about 18 years. He started out as a probation and parole officer in Boise District 4 for eight years, transitioned to the training division where he was involved in training all new employees in the organization. He returned to the field about 6 years later as a deputy district manager in Caldwell District 3, and was promoted to district manager. After serving there for five years, he was promoted to Deputy Chief of the Department of Pardons and Parole. **Mr. Barrier** added he was anxious to do whatever possible to enhance public safety. He was interested in using evidence based practices, and in evaluating how they were being delivered to those clients to give them their best chance for success.

DISCUSSION: **Chairman Lakey** asked what the difference was in sex offenders and other offenders. **Mr. Barrier** responded that he approached sex offenders in the same manner he did any offender. He worked with the behavior that caused them to make those choices. He also worked with people who could provide the types of services the sex offenders required. **Senator Wintrow** questioned what Mr. Barrier saw that had made a big difference in their lives. **Mr. Barrier** said the staff had a lot of tools and training provided for them. He had seen that moving away from having someone just comply with the rules did not necessarily make them successful. He stated people needed to have their basic needs met. Starting out by meeting those basic needs, and then taking small steps toward improvement. **Mr. Barrier** added people needed to feel connected and that someone was invested in their success. **Senator Ricks** asked how the new role Mr. Barrier was appointed to affected his primary job. **Mr. Barrier** explained his primary job was full time and covered all seven probation and parole districts in the State. He said if he could focus on one thing, it would be to create ways to make the connections he previously discussed.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Luke Malek of Coeur d'Alene, Idaho, to the State Board of Corrections**, to serve a term commencing January 30, 2025, and expiring January 30, 2031. **Mr. Malek** introduced himself and stated he was from North Idaho. He received his undergraduate degree at the College of Idaho, and graduated from law school from the University of Idaho. He served 6 years as a representative in the Idaho House of Representatives. **Mr. Malek** added he was a former prosecutor and now owned his own legal practice with locations in Boise, Portland, Spokane and Kennewick. Their firm focused on health care law, litigation and transactional law. He had stayed very active in law enforcement. **Mr. Malek** stated his passion in making Idaho safe and the best that it could be was what interested him in taking this appointment. The Board of Corrections played a major roll in that. He was committed to making sure when people were no longer incarcerated, they were coming out of incarceration prepared to be better members of society.

Senator Wintrow asked what challenges or issues Mr. Malek might want to focus on while he was serving on the Department of Corrections Board. **Mr. Malek** said the most important thing was to have the right motivation for being there. The constitutional rights of those involved must come first, then the statutory duties must be fulfilled. All agencies and interests needed to work together to make Idaho as safe as possible.

PASSED THE GAVEL: **Chairman Lakey** passed the gavel to Vice Chairman Shippy for rules review.

**DOCKET NO:
11-1101-2401**

Rules of the Idaho Peace Officer Standards and Training Council. Brad Johnson, Administrator, POST, Idaho State Police, stated this legislation was the adoption of a pending rule. This was a proposed rule to adopt the temporary rule which was in effect in July 2024. **Officer Johnson** explained the only change was the addition of two commas which were unintentionally not included in the final copy adopted by the Legislature, but were originally intended and approved by the Post Council. There were no changes to the pending rule and it was being adopted as originally proposed. The lack of the two commas significantly changed that section and it was not what was intended.

Senator Wintrow asked if anything substantially changed with the omission of the two commas. **Officer Johnson** stated that in the absence of the commas, it eliminated simple marijuana use as a disqualifier. That was not the intention.

MOTION:

Senator Wintrow moved to accept **Docket No. 11-1101-2401**. **Chairman Lakey** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Shippy passed the gavel back to Chairman Lakey.

ADJOURNED:

There being no further business at this time, **Chairman Lakey** adjourned the meeting at 1:55 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, January 20, 2025

For members of the public to observe the meeting, please click on the following link:
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SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Ashley Dowell of Nampa, Idaho, as Director of the Department of Juvenile Corrections to serve a term commencing June 9, 2024.	
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Cory Barrier of Boise, Idaho, to the Sexual Offender Management Board to serve a term commencing March 14, 2024 and expiring January 1, 2027.	
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Luke Malek of Coeur d'Alene, Idaho, to the State Board of Correction to serve a term commencing January 30, 2025, and expiring January 30, 2031.	
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of Christine Starr of Boise, Idaho, as Director of the Commission of Pardons and Parole to serve a term commencing October 21, 2024.	Christine Starr, Director, Commission of Pardons and Parole
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of Mary Martin of Boise, Idaho, to the Commission of Pardons and Parole to serve a term commencing June 27, 2024 and expiring January 1, 2026.	Mary Martin
<u>50-0101-2401</u>	Rules of the Commission of Pardons and Parole- Temporary and Proposed Rule	Christine Starr, Director, Commission of Pardons and Parole

Public Testimony Will Be Taken by Registering Through the Following Link:
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COMMITTEE MEMBERS

Chairman Lakey
Vice Chairman Shippy
Sen Ricks
Sen Foreman
Sen Lent

Sen Lenney
Sen Keyser
Sen Wintrow
Sen Ruchti

COMMITTEE SECRETARY

Sharon Pennington
Room: WW48
Phone: 332-1317
Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 20, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, 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 and Rules Committee (Committee) to order at 1:30 p.m.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Wintrow** moved to send the Gubernatorial Appointment of **Ashley Dowell** as Director of the Department of Juvenile Corrections to the floor with a recommendation that she be confirmed by the Senate. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Wintrow** moved to send the Gubernatorial Appointment of **Cory Barrier** to the Sex Offender Management Board (SOMB) to the floor with a recommendation that he be confirmed by the Senate. **Senator Ruchtie** seconded the motion. The motion carried by **voice vote**.

VOTE ON GUBERNATORIAL APPOINTMENT: **Senator Ricks** moved to send the Gubernatorial Appointment of **Luke Malek** to the State Board of Correction to the floor with a recommendation that he be confirmed by the Senate. **Senator Lent** seconded the motion. The motion carried by **voice vote**. **Senator Lenney** asked to be recorded as voting nay.

DISCUSSION: **Senator Lenney** stated he did not believe lobbyists should be in gubernatorial appointment positions.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Christine Starr of Boise, Idaho, as Executive Director of the Commission of Pardons and Parole**, to serve a term commencing October 21, 2024. **Ms. Starr** indicated she had been serving for the last three months and was honored by the appointment. She shared her educational and professional background. One important realization for her came when she was just out of law school. It became apparent that individuals in the criminal justice system were not the sum of the crimes or the worst decisions they had made. Justice was very complicated and especially when one considered all of the factors that lead people to make life changing decisions. **Ms. Starr** stated that her experience also prepared her to be able to work effectively with commissions since she understood the dynamics of how they worked. She stated she felt all of her experience in the areas of the criminal justice system, her work with boards, commissions and committees, and her passion for public safety had led her to where she was today.

DISCUSSION:

Chairman Lakey asked Ms. Starr how her service as a prosecutor and a defense attorney helped her in her position. **Ms. Starr** explained because of her experiences she understood both sides of the circumstances and how difficult they were. She added the Department of Corrections had the people in their care and custody longer than any other in the criminal justice system. They were also charged with rehabilitation and helped to change people's lives. She was mindful of all of the partnerships that the prosecutors, defense attorneys and the Idaho Department of Corrections had in making good decisions.

Senator Lent stated he had heard that the parole system was not accommodating to their people as they were trying to work. **Ms. Starr** stated she was not aware of that issue and indicated that generally individuals did not gain regular employment until they were actually on parole.

Senator Wintrow asked Ms. Starr to comment on how she balanced the responsibilities of her position. **Ms. Starr** responded her understanding of the players in the criminal justice system had been very beneficial. She reiterated her relationships with those involved allowed her to educate them in helping to make informed decisions. One of the areas she was interested in improving was transparency at the Commission of Pardons and Parole (Commission). So much of their work was done in Executive Sessions that it seemed secretive. She was hoping to educate the public by creating communications and information that could be placed on their website. **Ms. Starr** added they were going to lose more than half of their Commissioners. The positions were to be part time but the number of cases, in addition to the preparation time, had far exceeded part time status. The Commissioners were only paid for the time they were in the actual hearings. **Ms. Starr** planned to use the many relationships she had with those involved in the criminal justice system to help find solutions to some of the current issues.

**GUBERNATORIAL
APPOINTMENT:**

Committee Consideration of the Gubernatorial Appointment of Mary Martin of Boise, Idaho, to the Commission of Pardons and Parole, to serve a term commencing June 27, 2024 and expiring January 1, 2026. **Ms. Martin** stated she was born and raised in Oklahoma. She came to Boise, Idaho, in 1989 for an appointment with the FBI. She served her entire career in the Boise FBI Office and worked on bank fraud cases. Ms. Martin had a background in banking prior to working for the FBI. During the Clinton administration she worked on medicare fraud cases. **Ms. Martin** explained she changed her focus to work with sex crimes against children in 1997 and spent about 17 years in that area. She stated she was very passionate about victims after having dealt with young men and women who were abused. **Ms. Martin** added she had more insight into where these people were coming from. She would continue to keep public safety a priority.

DISCUSSION:

Senator Wintrow asked what motivated Ms. Martin to do this type of work now. **Senator Wintrow** also inquired about her plan to balance the information, accountability, and the hope that someone was rehabilitated. **Ms. Martin** responded she was in favor of having law enforcement on the Commission, but there was also a need for others with different backgrounds. Different commissioners focused on different parts of the package. There were always discussions and everyone's opinion was valued and respected. **Ms. Martin** added that this appointment being part time was appealing to her. She stated she had a priority to put public safety first, but also appreciated being able to see an individual improve and do better with life choices.

**PASSED THE
GAVEL:**

Chairman Lakey passed the gavel to Vice Chairman Shippy for rules review.

**DOCKET NO.
50-0101-2401**

Rules of the Commission of Pardons and Parole - Temporary and Proposed Rule. **Christine Starr**, Executive Director, Commission of Pardons and Parole, stated this rule was being adopted to address the enhancements created by H 600, which was passed during the 2023-2024 legislative session. This legislation was created to provide enhanced penalties for a second conviction of a felony with domestic violence, including attempted strangulation. The rule clarified the time frame for which a person may apply for a pardon on those crimes. The time frame alignment was particularly important in light of the Winkler case, which was decided by the Idaho Supreme Court in 2020, that precluded pardoned cases from being utilized for the purposes of penalty enhancement.

MOTION:

Senator Foreman moved to approve **Docket No. 50-0101-2401**. **Chairman Lakey** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Shippy passed the gavel back to Chairman Lakey.

ADJOURNMENT:

There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:05 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, January 22, 2025

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww54/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Approval of Minutes - January 13, 2025	Sen. Foreman
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Christine Starr of Boise, Idaho, as Executive Director of the Commission of Pardons and Parole to serve a term commencing October 21, 2024.	
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Mary Martin of Boise, Idaho, to the Commission of Pardons and Parole to serve a term commencing June 27, 2024 and expiring January 1, 2026.	
<u>RS 31967</u>	Relating to addressing the growing threat of "swatting" and its dangers to the public and private sectors.	Sen. Nichols
<u>S 1001</u>	UNIFORM PUBLIC EXPRESSION PROTECTION ACT - Adds to existing law to establish the Uniform Public Expression Protection Act.	Sen. Lenney

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Shippy

Sen Ricks

Sen Foreman

Sen Lent

Sen Lenney

Sen Keyser

Sen Wintrow

Sen Ruchti

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 22, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Wintrow, and Ruchti

ABSENT/ EXCUSED: Senator Keyser

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 1:31 p.m.

MINUTES APPROVAL: **Senator Foreman** moved to approve the Minutes of January 13, 2025. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Wintrow** moved to send the Gubernatorial Appointment of **Christine Starr** to serve as the Executive Director of the Commission of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Lent** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Wintrow** moved to send the Gubernatorial Appointment of **Mary Martin** to serve on the Commission of Pardons and Parole to the floor with a recommendation that she be confirmed by the Senate. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

RS 31967 **Relating to addressing the growing threat of "swatting" and its dangers to the public and private sectors.** **Senator Tammy Nichols** stated this legislation was passed on the Senate floor last session, but there was not time to get it through the House before the session adjourned. She explained this legislation was a proactive measure. It addressed the dangerous and escalating issues of swatting. They posed a risk to public safety, private individuals, and government resources. The goal of this bill was to deter false emergency reports, protect public and private safety, and prevent the waste of law enforcement resources. The definition of "swatting" was the act of making false reports of violence or emergencies which prompted a large scale police or emergency response. It caused harm to innocent individuals, unnecessary risk to law enforcement, and disruption to public safety services. This legislation criminalized false reports of violence or emergencies in public or private places. It provided a clear definition to ensure consistent enforcement and it established penalties appropriate to the severity of the offense. This legislation demonstrated Idaho's commitment to public safety, accountability and the efficient use of governmental resources.

DISCUSSION: **Senator Ricks** asked if this legislation was essentially the same as the 2024 legislation. **Senator Nichols** explained the penalties were changed to line up with the current code that was written for very similar crimes.

Senator Foreman was concerned the word "cause" on page 2 starting on line 10 might be viewed as vague. **Senator Nichols** responded those lines were the same verbage as what was currently in code for similar crimes and were used for consistency.

MOTION: **Senator Ricks** moved to send **RS 31967** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

S 1001 **UNIFORM PUBLIC EXPRESSION PROTECTION ACT** -added to existing law to establish the Uniform Public Expression Protection Act. **Senator Brian Lenney** explained that SLAPP lawsuits stood for Strategic Lawsuits Against Public Participation. He added they could take years and thousands of dollars to settle. SLAPP lawsuits were specifically designed to intimidate, distract, bankrupt, or punish free speech. The bill was designed to provide a comprehensive and efficient mechanism for quick resolution to SLAPP lawsuits. **S 1001** allowed a judge to dismiss a case on the front end of the lawsuit instead of having to wait until they went through full discovery. It protected innocent parties from being victimized by wealthy and powerful people who tried to silence free speech. **Senator Lenney** stated he felt this legislation represented a nonpartisan issue because there had been support from a broad political coalition.

DISCUSSION: **Sentor Lent** questioned if there had been any feedback from judges or prosecutors on their positions. **Senator Lenney** responded he had spoken with the Supreme Court Administrators, and the Idaho Trial Lawyers Association, and there were no objections.

Senator Wintrow asked if her assumption that the judge decided if the lawsuit moved forward or not was correct. **Senator Lenney** agreed with her, and added that it was also determined by the judge if he would allow limited discovery or any discovery.

TESTIMONY: **Kaitlin Wolff** testified on behalf of the Uniform Law Commission, and supported this legislation. **Ms. Wolff** explained the harm this legislation was trying to prevent. People weaponized the court system and used it to punish people for speaking out on issues of public concern. The bill created a process where if someone was faced with an unfair lawsuit, they filed a motion with the court that would freeze the lawsuit. That resulted in no discovery which would then prevent mounting legal fees and depositions between the parties. After those steps had been followed, the judge decided whether or not it was an unjust lawsuit or if it appeared legitimate. If it was legitimate, then it followed the normal course of a trial. **Ms. Wolff** stated there was no mechanism in Idaho to stop the fake lawsuits from proceeding. The growing trend made sure all states had an anti-SLAPP statute strong enough to prevent individuals who shopped for a state to file a lawsuit in.

DISCUSSION: **Chairman Lakey** stated there were three different potential aspects of a case to determine whether it proceeded forward. The first was if the party failed to state a cause of action. The second was if there was no issue of material fact. The third aspect was if they failed to establish a prima facie case. **Chairman Lakey** asked Ms. Wolfe to explain what prima facie meant. **Ms. Wolff** stated it meant "on the face." She further explained the judge looked at the basic statement and determined if there was enough evidence to show a legitimate lawsuit.

Senator Ricks asked if Ms. Wolff was aware of less bullying online in states who had anti-SLAPP legislation. **Ms. Wolff** explained that this legislation was fairly new and it varied from state to state. The anti-SLAPP legislation did not change any underlying cause of action, so people still needed to watch what they say online. **Senator Ricks** questioned if the legislation protected those who were more vocal to speak out and attack others with it. **Ms. Wolff** explained the protection did not cover anything vulgar, hate speech, or similar things that someone may post online.

TESTIMONY: **Katherine Hartley**, attorney, represented the Pacific Justice Institute, encouraged the passing of **S 1001**. **Ms. Hartley** explained anti-SLAPP laws defended against efforts to kill constitutionally protected speech through meritless, harassing, or frivolous lawsuits. SLAPP lawsuits were often designed to burden defendants with maximum legal fees and maximum distress. An anti-SLAPP law provided a procedure to dismiss unnecessary lawsuits from draining time and resources defending one's viewpoints from groundless claims, and dismissed frivolous claims quickly for a more efficient legal process.

TESTIMONY: **Matthew Kay Jensen**, testified on his own behalf, and stated he had been threatened with legal action upward of 65 times since his online account was created. At least 44 of the threats were from people who were either known to be, or alleged to have been, in the State of Idaho. He testified he had never said anything to the level of any legal action being required. **Mr. Jensen** asked the Committee to help the people of Idaho before the SLAPP situation got any worse.

TESTIMONY: **Ken McClure**, represented the Idaho Liability Reform Coalition, encouraged the passing of **S 1001**. The groups Mr. McClure represented had a common theme of "Let's save the judicial system for suits that belong in the judicial system, and see if we can get those lawsuits resolved in a quicker, cheaper way." Mr. McClure added the legislation allowed someone who may not be able to afford expensive lawyers to get their day in court in a quick and economical way.

TESTIMONY: **Cynthia Gibson**, Government Relations Associate, Idaho Conservation League, supported the passage of **S 1001**. **Ms. Gibson** stated this legislation had wide support from reporters, public speech advocates, the American Civil Liberties Union (ACLU), National Taxpayers Union, and dozens of conservative, moderate and progressive groups alike. They felt it would be in the best interest of the people of Idaho to adopt this new rule.

TESTIMONY: **David Jensen**, Chair, Idaho Uniform Law Commissioners, stated the Idaho Uniform Law Commissioners fully supported the legislation. They considered it to be a worthy addition to Idaho law.

Senator Lenney closed by stating passage of this legislation protected people from enduring unnecessary punishment as a result of using their freedom to speak.

MOTION: **Senator Ruchti** moved to send **S 1001** to the Senate floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION: **Senator Ruchti** explained these lawsuits were a bit different than most lawsuits filed in court. They had to do with free speech, freedom of the press, and official deliberations done by deliberative bodies, city councils, and legislative bodies. They were particular types of cases with a complex set of laws. The legal system is designed to remove frivolous lawsuits. Under the Constitution, one has the right to their day in court. One has the right to have a jury hear the case. With SLAPP lawsuits, the judge determines whether there are facts to support the case. If not, the court can dismiss the case. **Senator Ruchti** expressed he felt this was the right way to handle these types of cases.

Chairman Lakey added he appreciated this legislation did not change the legal elements of a particular cause of action. The initial review contemplated by this bill made sure the basic standards were met before the lawsuit proceeded.

MOTION: The motion carried by **voice vote**.

ADJOURN: There being no further business before the Committee, **Chairman Lakey** adjourned the meeting at 2:14 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, January 27, 2025

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww54/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Approval of Minutes - January 15, 2025	Sen. Lent
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of Janece Geisel of Nampa, Idaho, to the Sexual Offender Management Board to serve a term commencing January 20, 2025 and expiring January 1, 2028.	Janece Geisel
<u>RS 31981</u>	Relating to Judicial Districts to Revise Provisions Regarding the Number of Judges in the First Judicial District	Jason Slade Spillman, Legal Counsel, Administrative Office of the Courts
<u>RS 31982</u>	Relating to Judicial Districts to Revise Provisions Regarding the Number of Judges in the Seventh Judicial District	Jason Slade Spillman, Legal Counsel, Administrative Office of the Courts
<u>RS 32049</u>	Pertaining to Annual Attorney License Fees	Sen. Lakey
<u>S 1019</u>	FIREARMS, EXPLOSIVES, AND OTHER DEADLY WEAPONS - Amends and adds to existing law to revise a provision regarding a false report of explosives and to provide for the crime of false reports of violence or emergency in public or private places.	Sen. Nichols

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Shippy

Sen Ricks

Sen Foreman

Sen Lent

Sen Lenney

Sen Keyser

Sen Wintrow

Sen Ruchti

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 27, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lenney, Keyser, Wintrow, and Ruchti

ABSENT/ EXCUSED: Senator Lent

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.

MINUTES APPROVAL: **Senator Foreman** moved to approve the Minutes of January 15, 2025. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Janece Geisel of Nampa, Idaho, to the Sexual Offender Management Board (SOMB)**, to serve a term commencing January 20, 2025 and expiring January 1, 2028. **Ms. Geisel** stated she was a licensed clinical professional. She provided treatments and evaluations to adult and juvenile clients in the justice system. **Ms. Geisel** was recommended for the position to serve on the SOMB, and she felt she would be a good fit with her experience working with the Parole and Probation Department with adult offenders. As **Ms. Geisel** went through the SOMB's goals and statutes, she felt she could help provide guidance and expertise to their program.

DISCUSSION: **Senator Wintrow** asked **Ms. Geisel** what she viewed as important things as she moved on to SOMB. **Ms. Geisel** responded she felt maintaining confidentiality was vital and she was comfortable with that aspect of her service. She stated she was concerned about attending the required meetings, but was confident that would be possible. **Ms. Geisel** added her profession had given her a unique perspective of what was going on with clients as they adjusted to treatment. Her position as an evaluator helped her to know the needs and risk factors that needed to be included in the evaluations to create best practice and procedures.

RS 31981 **Relating to Judicial Districts to Revise Provisions Regarding the Number of Judges in the First Judicial District.** **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts for the Idaho Supreme Court (Court), stated the Court had two requests for legislative assistance. The first request was to improve judicial compensation and the second was for additional judgeships in certain areas of Idaho. **Mr. Spillman** explained Idaho had Seven Judicial Districts, and the number of positions were established in Idaho Code. Whenever a district judge was added, the statute was required to be amended. **RS 31981** was seeking to do that. The judge would be chambered in Kootenai County which was in the First District. That district consisted of five counties and had seven district judges. There have been consistent justification for the positions with increased caseload and population growth. Those two factors caused an inefficient and unsustainable system. They had two district judges from outside of Kootenai County traveling for a week or more each month to help keep the cases moving.

DISCUSSION: **Senator Ricks** asked how the Court evaluated and determined where one more judge was needed. **Mr. Spillman** explained it was a long and thoughtful process, and many of the districts actually made a request on their own. The trial court administrators identified priorities within the districts. When a need for an additional judicial position was evident, it came as part of that request. It was assessed when the courts put their budgets together. There was a need for several judicial positions. The court had tried to have districts and/or counties take their turn in filling the open positions. Once the justifications were identified by the trial court administrators, the Idaho Supreme Court ultimately made the decision.

MOTION: **Senator Wintrow** moved to send **RS 31981** to print. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

RS 31982 **Relating to Judicial Districts to Revise Provisions Regarding the Number of Judges in the Seventh Judicial District.** **Jason Slade Spillman**, Legal Counsel, Administrative Office of the Courts for the Idaho Supreme Court, stated there was a need for a new district judge in the Seventh Judicial District. **Mr. Spillman** indicated the Seventh District was geographically the largest district in Idaho. The area was unique because it consisted of a mix of large and smaller counties. The Idaho Falls area had increased in population as well as other Idaho areas. Because the area was so large, it required the judges to spend an excessive amount of time traveling from one area to another. As a result, their time was being spent driving and not doing their judicial work of hearing cases. To alleviate the issue and keep the cases moving in a timely manner, the Court asked for an additional judicial judge for District Seven.

MOTION: **Senator Ricks** moved to send **RS 31982** to print. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

PASS THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Shippy while he presented the next RS.

RS 32049 **Senator Todd Lakey, Pertaining to Annual Attorney License Fees.** **Senator Lakey** indicated he had worked with the Idaho State Bar on **RS 32049** and there had been no increase in bar dues or license fees since 2007. The State Bar was an organization funded by its members. At this time, additional funds were needed to help monitor the attorneys in the State of Idaho. The increase ranged from \$15 to \$60 per year depending on the category one falls under.

MOTION: **Senator Foreman** moved to send **RS 32049** to print. **Senator Lenney** seconded the motion. The motion carried by **voice vote**.

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

S 1019 **FIREARMS, EXPLOSIVES, AND OTHER DEADLY WEAPONS - Amends and adds to existing law to revise a provision regarding a false report of explosives and to provide for the crime of false reports of violence or emergency in public or private places.** **Senator Nichols** presented **S 1019** which was known as the Anti Swatting bill. Last session the legislation was held in the House because of some of the outlined penalties. Those penalties were revised so that it would be accepted by the House. The purpose of the proactive legislation was to address the dangerous and escalating issues of swatting which pose significant risk to public safety, private individuals, and government resources. **Senator Nichols** added the primary goals in the bill were to deter false emergency reports protecting public and private safety and prevented waste of law enforcement resources. The current law did not address the specific dangers posted by false reports involving threats of violence or large scale emergencies. **S 1019** explicitly criminalized false reports of violence or emergencies in public or private places, provided clear definitions to ensure consistent enforcement,

and established penalties appropriate to the severity of the offense. This legislation did not create new expenditures or financial burdens on state or local governments, and it protected public safety by reduced unnecessary risks for law enforcement and the public. This also built trust in the emergency response systems by ensuring they were not being misused nationwide. Passage of **S 1019** legislation would deter malicious activities and safeguard our communities.

TESTIMONY: **Fred Birnbaum**, represented the Idaho Freedom Foundation, and supported the bill. **Mr. Birnbaum** stated he agreed with the revisions made in the 2025 bill. He said he was in agreement with the new language relating to knowing that a report was false and reporting it anyway. **Mr. Birnbaum's** major concern was that the legislation lacked mandatory minimums as one of the potential penalties.

TESTIMONY: **Tracy Basterrechea**, represented the Meridian Police Department and the Idaho Chiefs of Police Association, spoke in favor of **S 1019**. **Chief Basterrechea** stated that swatting was very common in Idaho. The calls were very realistic and sounded as if they were occurring in real time. Ada County had resources to help them determine if the calls were real. In many areas they did not have the resources, which resulted in the use of emergency vehicles, putting themselves and the public at risk. **Chief Basterrechea** stated that he believed this was a public safety bill which was very necessary.

DISCUSSION: **Senator Wintrow** asked if many calls were coming from juveniles. **Chief Basterrechea** responded they did receive calls from juveniles and the most common reason they made the swatting calls was to create chaos. He stated they explained the risks involved with this behavior to the involved students. They did a lot of education in legal areas through the school resource officers.

TESTIMONY: **Rex Ingram**, President, Idaho Chiefs of Police Association and Caldwell Chief of Police, supported the swatting legislation (**S 1019**). **Chief Ingram** described his work background and noted he was familiar with the swatting calls, the resources they required, and the amount of deployment they used. He was surprised Idaho had as many of the issues as they did. He added most of the calls were coming from out-of-state people who were involved in online gaming. **Chief Ingram** stated there had been a substantial increase in swatting calls made to schools during 2022 and 2023. **Chief Ingram** explained he thought this bill was a start to keeping Idahoans safe, and also an opportunity to discuss that there were no mandatory minimums in these types of cases.

DISCUSSION: **Senator Ricks** questioned what part of the legislation needed to be changed to allow the perpetrators to be caught. **Chief Ingram** said a penalty of a felony would allow police counterparts out of state, or the federal government, to get the perpetrators extradited back into Idaho. Every case was different and the bill allowed the judicial process to weigh the circumstances. To actually get to trial was far more difficult than just getting a youth who did not realize the ramifications of what they had done. This legislation gave the ability to seek State charges in Idaho.

Senator Nichols said she wanted to clarify the use of the word "causes" in the bill. She stated it related to proximate causes. The definition in Black's Law Dictionary read, "It means a cause that directly produced an event and without which the event would not have occurred." **Senator Nichols** closed and stated she felt this legislation was a good preventative bill. It hopefully deterred those who wanted to continue participating in swatting, and held those accountable who did not live in the State by providing the tools necessary to make that happen.

Senator Ricks inquired about the meaning of "excluding explosives" found on page 1. **Senator Nichols** responded there was a separate section in code that defined what explosives devices were.

MOTION: **Senator Foreman** moved to send **S 1019** to the floor with a **do pass** recommendation. **Senator Ricks** seconded the motion. **Senator Lakey** thanked Senator Nichols and the law enforcement community for their efforts to keep the public and first responders from potentially lethal situations. The motion carried by **voice vote**.

ADJOURNED: There being no further business before the Committee, **Chairman Lakey** adjourned the meeting at 2:12 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, January 29, 2025

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww54/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes Approval of January 20, 2025	Sen. Wintrow
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Janece Geisel of Nampa, Idaho, to the Sexual Offender Management Board to serve a term commencing January 20, 2025 and expiring January 1, 2028.	
INTRODUCTION:	Introduction of Presenting Judges - Jason Slade Spillman, Legal Counsel, Administrative Office of the Courts	
PRESENTATION:	The Challenges of Judicial Recruitment and Retention	Judge Rick Carnaroli, Administrative District Judge, Sixth Judicial District
PRESENTATION:	The Need for an Additional District Judge in the First Judicial District	Judge Barry McHugh, Administrative District Judge, First Judicial District
PRESENTATION:	The Increasing Complexity of Cases and the Administrative Effects of Lengthy Trials	Judge Steven Boyce, Administrative District Judge, Seventh Judicial District
<u>RS 31865C2</u>	Relating to Legislation Requiring that Fewer Rental Application Fees are charged under Certain Circumstances	Sen. Rabe
<u>RS 31962</u>	Relating to Legislation to Re-Organize the Landlord-Tenant Code	Sen. Rabe

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Shippy

Sen Ricks

Sen Foreman

Sen Lent

Sen Lenney

Sen Keyser

Sen Wintrow

Sen Ruchti

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 29, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, 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 Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Wintrow** moved to approve the Minutes of January 20, 2025. **Senator Shippy** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Wintrow** moved to send the **Gubernatorial Appointment of Janece Geisel of Nampa, Idaho, to the Sexual Offender Management Board (SOMB)** to serve a term commencing January 20, 2025 and expiring January 1, 2028 with the recommendation that she be confirmed by the Senate. **Senator Ricks** seconded the motion. The motion carried by **voice vote**.

INTRODUCTION: **Jason Slade Spillman, Legal Counsel, Administrative Offices of the Courts to the Idaho Supreme Court**, introduced the presenting judges. Mr. Spillman explained that each presentation came from an Administrative District Judge who handled all felony criminal and civil cases involving amounts in controversy over \$10,000, other than divorce cases and probate matters.

PRESENTATION: **The Challenges of Judicial Recruitment and Retention by Judge Rick Carnaroli, Administrative District Judge, Sixth Judicial District.** **Judge Carnaroli** relayed that the current challenges facing Idaho's recruitment and retention of judges included a decrease in applications, a need for breadth of legal experience in complex civil litigation, and the choice of judges to have shorter careers. Many of the current judges were new, faced pressure, threat and trauma in their roles, and the number of other opportunities with better pay had increased. These factors limited judicial recruitment and retention.

DISCUSSION: **Senator Ruchti** and **Senator Shippy** asked about pay or other possibilities to entice judicial application and retention. **Judge Carnaroli** responded that lawyers gave up their clientele list when they left public practice and that it was hard to rebuild, some freedoms were sacrificed, and associations and friendships must change.

PRESENTATION: **The Need for an Additional District Judge in the First Judicial District presented by Judge Barry McHugh, Administrative District Judge, First Judicial District.** Judge McHugh presented the Idaho Supreme Court's request for a new district judge position in Kootenai county. The First District had the highest case load per judge in the State, a 50/50 breakdown of cases between civil and criminal, and was the third fastest growing county in the State. Currently, judges from surrounding counties had driven an hour commute to help with the heavy case load. A new courthouse would be finished in August 2025 and would provide three additional courtrooms. The demand and need was expected to increase with the population. An additional district judge would increase effectiveness and efficiency.

DISCUSSION: **Senator Lakey** asked if there was growth in any particular kind of criminal or civil cases. **Judge McHugh** said property disputes, drug-trafficking and drug possession cases increased. **Senator Ruchti** asked about the role of writing as a judge. **Judge McHugh** stated that a well written decision helped everyone going forward, increased trust in the judiciary, and gave clarity to the appeals process.

PRESENTATION: **The Increasing Complexity of Cases and the Administrative Effects of Lengthy Trials presented by Judge Steven Boyce, Administrative District Judge, Seventh Judicial District.** Judge Boyce spoke of the logistical realities when a judge received a high profile, complex, or relocated trial. These exceptional cases took more time than they used to and required another judge, such as a senior judge, to fill in so there was not a backlog.

DISCUSSION: **Senator Ricks** asked who covered for Judge Boyce when his long case was relocated to Boise. **Judge Boyce** relayed that three senior judges filled in for him. **Senator Ricks** inquired about the use of technology and virtual court. **Judge Boyce** explained that remote hearings have continued and helped reduce the workload. There were reasons for having court in person, including a large amount of evidence or testimony, or when defendants needed to be present to show soundness of mind. **Senator Ruchti** inquired about the role of a judge in a well run trial. **Judge Boyce** explained that high profile cases were watched by many, and it was critical that people see the rule of law was followed with order and in the right way.

RS 31865C2 **Relating to Legislation Requiring that fewer Rental Application Fees were Charged Under Certain Circumstances.** **Senator Rabe** introduced **RS 31865C2**, a consumer protection bill for renters, limiting landlords to charge only 2 households an application fee at a time per open unit and required application fees to be related to the actual cost of running a background check. Exceptions to the bill included those who don't charge an application fee; those units with an ongoing wait list, such as affordable housing units or senior living; or student housing. The goal of the bill was that renters would not pay fees for rentals for which they were not actually being considered.

MOTION: **Senator Wintrow** moved to send **RS 31865C2** to print. **Senator Ricks** seconded the motion.

DISCUSSION: Discussion ensued about opposition emails received by members of the committee that morning. **Senator Ricks**, **Senator Foreman**, and **Senator Shippy** clarified a vote to print is not an endorsement for the bill. **Senator Rabe** stated the emails came from a small group of those who had not read the legislation. **Senator Wintrow** stated she had only received an email of support from Tyler Waters of the Idaho Apartment Association.

VOTE: The motion to send to print was approved by **voice vote**. **Senator Foreman** asked to be recorded as voting Nay.

RS 31962 **Relating to Legislation to Re-Organize the Landlord-Tenant Code.** **Senator Rabe** introduced **RS 31962**, a bill that combined two sections of landlord tenant code, Title 59 chapter 3 and Title 6 chapter 3, and reorganized them into one. The most useful and important parts were moved to the top of the code. The only substantive change was to remove a reference to coverture, an outdated practice where a woman's legal status with regard to a lease was tied to her father or husband.

DISCUSSION: **Senator Lenny** asked where the rent control section was moved to and clarified that nothing had changed about it. **Senator Rabe** stated the section was 55 306 and that nothing was changed.

MOTION: **Senator Wintrow** moved to send **RS 31962** to print. **Senator Ricks** seconded the motion. Motion carried by **voice vote**.

ADJOURN: There being no further business, **Chairman Lakey** adjourned the meeting at 2:37 p.m.

Senator Lakey

Chair

Sharon Pennington
Secretary

Christa Klosterman
Assistant Secretary

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, February 03, 2025

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww54/>

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Appointment of David Birch of Meridian, Idaho, to the Sexual Offender Management Board (OSMB) to serve a term commencing December 6, 2024 and expiring January 1, 2027.	David Birch
<u>RS 32109</u>	To ensure that birth parents in the adoption process are notified and given free legal and mental health counseling, provided by the adoptive parents.	Sen. Nichols
<u>S 1028</u>	JUDICIAL DISTRICTS - Amends existing law to revise provisions regarding the number of judges in the First Judicial District.	Jason Spillman, Legal Counsel, Administrative Office of the Courts
<u>S 1029</u>	JUDICIAL DISTRICTS - Amends existing law to revise provisions regarding the number of judges in the Seventh Judicial District.	Jason Spillman, Legal Counsel, Administrative Office of the Courts

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Shippy

Sen Ricks

Sen Foreman

Sen Lent

Sen Lenney

Sen Keyser

Sen Wintrow

Sen Ruchti

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 03, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Foreman, Lent, Lenney, Keyser, Wintrow, and Ruchti

ABSENT/ EXCUSED: Senator Ricks

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.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Appointment of David Birch of Meridian, Idaho**, to the Sexual Offender Management Board (SOMB) to serve a term commencing December 6, 2024 and expiring January 1, 2027. **Mr. Birch** stated he was currently with the Idaho Department of Corrections (IDOC). He had worked in the Idaho Criminal Justice System for over 28 years with both adolescent and adult populations. His experience had included supervising individuals with sexual offenses. **Mr. Birch** further explained he had the opportunity to work and partner with treatment providers, evaluators and calligraphers. He felt all of his experience would be beneficial as he served in his new position on the SOMB.

DISCUSSION: **Senator Wintrow** asked Mr. Birch to comment on the roles and responsibilities he had been asked to fill and highlight the skills he had to make him a good fit for the appointment. **Mr. Birch** explained the role of the Committee was to be a regulatory board for evaluators, treatment providers and polygraph examiners. He felt it was vital to have the highest quality people in those types of positions because of the nature of the people being treated.

Senator Keyser questioned if Mr. Birch was familiar with the Rider Program. **Mr. Birch** responded he was familiar with the Rider Program, and that it provided a good opportunity for an individual who may be a high enough risk that they needed to be sent to one of the correctional institutions. The person would get some level of treatment and then demonstrate if they were a productive member of society. The Rider Program provided benefits for judges to use for some individuals.

RS 32109 **To Ensure that Birth Parents in the Adoption Process are Notified and Given Free Legal and Mental Health Counseling, provided by the Adoptive Parents.** **Senator Nichols** stated the bill added a minimum of three sessions of pre-placement counseling and a minimum of six post-placement counseling sessions. The birth mother also received legal counsel and counseling services of her choice with the costs covered by the prospective parents. **Senator Nichols** added the new sections strengthen the rights and well-being of the birth mothers by ensuring they were supported through professional counseling services and legal guidance at no cost to them.

DISCUSSION: **Senator Ruchti** questioned if there was language in the legislation that stated the fees needed to be reasonable for either the counseling or legal services. **Senator Nichols** and **Chairman Lakey** assured Senator Ruchti there were provisions to cover that concern.

MOTION: **Senator Lent** moved to send **RS 32109** to print. **Senator Keyser** seconded the motion. The motion carried by **voice vote**.

S 1028 **JUDICIAL DISTRICTS** - Amends existing law to review provisions regarding the number of judges in the First Judicial District. **Jason Spillman, Legal Counsel, Administrative Office of the Idaho Supreme Court. Mr. Spillman** explained **S 1028** would create a new district judge position in Kootenai County. The State of Idaho was divided into seven judicial districts for the purpose of administration, and the number of district judges was established by the Legislature. There were currently 49 district judges in Idaho. The First Judicial District was in the northern part of Idaho and consisted of five counties and seven district judges. The last district judge position added in the first district was in 2020 and he was chambered in Bonner County. The last district judge hired in Kootenai County was in 2006. Kootenai County was the third fastest growing county in the State, and in addition it had the highest number of filings per district. **Mr. Spillman** explained many of the steps taken to meet the growing need for another judge. In spite of the efforts, the result had been decreased amount of time available for researching, writing and issuing decisions for the judges home districts. **Mr. Spillman** added housing and support for a district judge required expenditures from the involved counties. The attached letters (see Attachments 1 and 2) from Commissioners located in Kootenai and Bonneville County reflected their support. The lack of space for another judge was an issue in Kootenai County. This year a new facility was being built which would house the additional district judge.

DISCUSSION: **Chairman Lakey** asked Mr. Spillman how the courts handled rotating which county could have a new judge. **Mr. Spillman** stated the year long budgeting process identified what the courts requested from the Legislature related to budgetary support. The trial court administrators presented their priorities to the court and the administrative office provided their list of needs. All of the requests were prioritized and the court made the decision about which requests would be filled. This year their requests were focused on judicial compensation and the creation of two district judge positions. The judgeships were set in statute. The court then determined where the judges would be housed, recognizing there was a need statewide.

MOTION: **Senator Ruchti** moved to send **S 1028** to the floor with a **do pass** recommendation. **Senator Lent** seconded the motion. The motion passed by **voice vote**. **Senator Lenney** requested to be recorded as voting Nay.

S 1029 **JUDICIAL DISTRICTS** -Amends existing law to revise provisions regarding the number of judges in the Seventh Judicial District. **Jason Spillman, Legal Counsel, Administrative Office of the Idaho Supreme Court. Mr. Spillman** stated **S 1029** requested an additional judge for the Seventh Judicial District. The Seventh District was in the eastern part of the State. It included ten counties with six district judges covering all the areas. The last new judge position in the Seventh District was in 2013 and he was chambered in Jefferson County. The last time Bonneville County had a new judge added was in 1993. The judges were currently providing coverage to the three districts that were outside of Bonneville County to keep the cases moving. All six district judges in the Seventh District handled a treatment court and four of them traveled outside of their own county. The Seventh District covered an expansive geographic area and required much travel time. It was estimated that the current district judges spent more than 51 days a year to get from courthouse to courthouse. Bonneville County was the medical hub of eastern Idaho which resulted in complex, highly litigated, medical malpractice cases. Letters of support from the Bonneville County Commissioners were provided (see Attachment 1.) They recognized the need for their support in addition to that of the Legislature.

DISCUSSION: **Senator Shippy** asked if the judges were compensated differently for their drive time versus either time on the bench or writing their opinions. **Mr. Spillman** stated they were not. He commented their travel time was accounted for, otherwise it was the same as their salary time.

Chairman Lakey questioned how many district judges were chambered in the other districts. **Mr. Spillman** responded there were 49 judges total including the two new requested positions. He did not have the breakdown for each district, but indicated District Three and District Four had the largest numbers because they were large population centers. He added the smallest was the Second District. **Senator Ruchti** asked if there was a possibility of a reorganization to the districts to balance the number of judges. **Mr. Spillman** replied that he was not aware of any. He indicated the Court tried to balance the requests with the specific needs at that time.

MOTION: **Senator Lent** moved to send **S 1029** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion.

DISCUSSION: **Senator Lenney** explained he would be voting Nay on **S 1029**. He added he was concerned with the way compensation continued to grow to keep up with the growing population. He stated there needed to be another way to determine number of judges and districts. **Senator Foreman** commented that Idaho was one of the fastest growing states in the country. He served on the Joint Finance and Appropriations Committee (JFAC) and shared that the Legislature's philosophy was that most of government was personnel to provide the many services that were at the heart of things needed in our State.

MOTION: The motion carried by **voice vote**. **Senator Lenney** asked to be recorded as voting Nay.

ADJOURNED: There being no further business to come before the Committee, **Chairman Lakey** adjourned the meeting at 2:00 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, February 10, 2025

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww54/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes Approval of January 27, 2025	Sen. Foreman
GUBERNATORIAL APPOINTMENT VOTE:	Vote on the Gubernatorial Appointment of Colonel William Gardiner of Meridian, Idaho, as Director of the Idaho State Police to serve a term commencing August 19, 2024.	
<u>RS 32136</u>	Relating to a Mandatory Minimum Sentence for repeated DUIs and including Vehicular Manslaughter.	Sen. Bernt
<u>RS 32243</u>	Relating to duties of coroners, and provides definitions and standards to increase consistency in practice and improve public safety.	Sen. Wintrow
<u>RS 32260</u>	Relating to S 1292 and stating that no state or local law enforcement agent or agency shall engage in motorcycle profiling and providing POST training to ensure compliance.	Sen. Guthrie
<u>H 7</u>	UNIFORM CONTROLLED SUBSTANCES - Amends existing law to provide a penalty for possession of less than three ounces of marijuana.	Representative Skaug

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Shippy

Sen Ricks

Sen Foreman

Sen Lent

Sen Coho (Lenney)

Sen Keyser

Sen Wintrow

Sen Ruchti

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

Email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 10, 2025

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Shippy, Senators Ricks, Foreman, Lent, Lenney, Keyser, 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 and Rules Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Senator Foreman** moved to approve the Minutes of January 27, 2025. **Senator Shippy** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Wintrow** moved to send the **Gubernatorial Appointment of Colonel William Gardiner as Director of the Idaho State Police** to serve a term commencing August 19, 2024, with the recommendation that he be confirmed by the Senate. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

RS 32136 **Senator Bernt** stated **RS 32136** was a mandatory minimum driving under the influence vehicular manslaughter bill. There were some changes made from last year.

MOTION: **Senator Foreman** moved to send **RS 32136** to print. **Senator Keyser** seconded the motion. The motion carried by **voice vote**.

RS 32243 **Senator Wintrow** explained she and some of her colleagues had heard concerns about the coroner's system statewide. A group of coroners spent time last summer discussing those concerns and how to correct them. **RS 32243** aimed to standardize the powers and duties, the deaths to be reported, clarify educational standards and add definitions for the coroner system.

MOTION: **Senator Lent** moved to send **RS 32243** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

RS 32260 **Senator Guthrie** stated this bill asked to have information relating to motorcycle profiling added to the law enforcement agencies handbook and distributed to all law enforcement officers. The same information was incorporated in Police Officers Standards and Training (POST) enabling officers to be aware that such profiling was outside of the scope of the law.

MOTION: **Senator Foreman** moved to send **RS 32260** to print. **Senator Ruchti** seconded the motion. The motion carried by **voice vote**.

H 7

UNIFORM CONTROLLED SUBSTANCES - Amends existing law to provide a penalty for possession of less than three ounces of marijuana. **Representative Skaug** gave a short background on H 7. He stated the Idaho Chiefs of Police Association, the Sheriff's Association, and the Fraternal Order of Police all supported this bill. Idaho and three other states have strict regulations on all marijuana use. There were four medicinal pills given by prescription that contain marijuana. When marijuana usage began, the amount of marijuana it took to be an impaired driver or worker was much higher than the amount now. **Representative Skaug** explained the numerous negative impacts from marijuana usage. He said the minimum fine of \$300 was determined after much negotiation. The hope was that the \$300 fine would serve as a deterrent to drug usage.

TESTIMONY:

Chief Rex Ingram, President of the Idaho Chiefs of Police Association, supported H 7. **Chief Ingram** worked in California and saw the consequences of ineffective policies surrounding marijuana possession and other drug related offenses. He saw a minimum mandatory fine as more than a deterrent, but also a sign that Idaho did not allow a culture of disregard for the law. The mandatory fine of \$300 established that offenders were not without consequences.

Sara Winslow stated she had heard a lot of confusion about stalking, strangulation and aggravated battery having no mandatory minimums and the comparison to a small amount of marijuana receiving a \$300 fine. She reminded the Committee that a \$300 fine was much different than a jail sentence.

Joseph Evans, Officer, Kind Idaho, testified against H 7. **Mr. Evans** stated \$300 represented an undue burden. He estimated direct and opportunity costs involved and arrived at somewhere between \$5,000 - \$6,000. He added this mandatory minimum affected people who were not able to pay for basic needs. **Mr. Evans** said his preference was to give the judges the discretion to fine as they examined the circumstances.

Fred Birnbaum, from the Idaho Freedom Foundation, testified in support of H 7. **Mr. Birnbaum** explained a program used in Oregon and evidence proved it failed. Their program included decriminalization and drug treatment. Drug overdoses were up 75%, violent crime was up 17%, drug use, community disorder and homelessness were rampant. **Mr. Birnbaum** said Idaho did not want to go down the same path.

DISCUSSION:

Senator Shippy asked why the treatment programs did not work in Oregon. **Mr. Birnbaum** stated a lot of highly addictive drugs were decriminalized at the same time. That population interpreted the lack of consequences as being told it was not a crime to use drugs. The incentive was not enough to deter the drug purchases. **Mr. Birnbaum** added the \$300 minimum may not be enough incentive to decrease the drug usage, but the signal was that Idaho policies were not going in the direction of failed policies.

**WRITTEN
TESTIMONIES:**

Written testimony submitted online appears in Attachment 1.

TESTIMONIES:

Tony Oxsen, Nampa, Idaho, testified in support of the legislation. He supported the \$300 mandatory minimum and reminded the Committee this was a base and fines could be higher. He stated judges could still use their discretion.

Sheriff Matt Clifford, Idaho Sheriffs Association, expressed support for H 7. **Sheriff Clifford** said they supported this bill partially because surrounding states legalized marijuana in some way. It was important for Idaho to keep taking a strong position that it was hard on illegal drug issues. The \$300 mandatory minimum reminded people from Idaho and other states that if they purchased marijuana in Idaho, there were serious repercussions for doing so.

Daniel Murphy, Boise, Idaho, strongly supported this legislation. **Mr. Murphy** had much empathy for people who used medical marijuana for chronic pain, but did not believe the answer was to legalize marijuana. He stated just because Idaho's neighbors legalized marijuana, did not mean Idaho should.

Thad Butterworth, Republican Central Committee, strongly supported this legislation. **Mr. Butterworth** said his organization wanted to do everything they could to strengthen the laws and the deterrents for people to not use marijuana.

Grace Howitt, Policy Analyst, Idaho Family Policy Center, supported **H 7**. She cited both Colorado and Oregon experienced an increase in property crime and violent crime after they legalized marijuana use. **Ms. Howitt** stated she believed a mandatory minimum fine for personal marijuana use would deter its use and show how seriously Idaho took the issue.

Alex Joye Grenier, Star, Idaho, supported **H 7**. **Mr. Grenier** referenced states who had legalized marijuana use and the negative results from that decision. He stated Idaho was a safe place and asked the Committee to protect the Idaho communities.

Christian Braun, Boise, Idaho, testified in favor of **H 7**. **Mr. Braun** explained he had served as a police officer, a practicing Idaho attorney and a public school teacher in Washington. As was mentioned, marijuana was much stronger than it was 30 years ago. Marijuana use had proven to be the gateway drug it was never supposed to be. He witnessed children being sold for sex to provide money for their parent's drug habits. **Mr. Braun** stated he received a master's degree in teaching and began teaching on a small Indian reservation where drugs were easily accessible. He witnessed active cartels, students participating in gangs, and students who overdosed and were removed from school. The area was very poor and yet the students would find a way to get the drugs they wanted. **Mr. Braun** added this legislation provided a way to protect children.

MOTION:

Senator Ricks moved to send **H 7** to the floor with a **do pass** recommendation. **Senator Foreman** seconded the motion.

DISCUSSION:

Senator Foreman stated he was not unsympathetic to those who use marijuana to relieve pain. He added he was a retired police officer and had seen many negative effects from marijuana use. He wanted to keep it out of Idaho in any way possible. He said passing the legislation was a step in the right direction.

Senator Ruchti explained he was not going to vote in support of **H 7** because it tied the judge's hands. They were the ones in the best place to make the determinations. He was also concerned because law enforcement sponsored the bill and he did not feel that was their place.

Senator Shippy said he supported **H 7**. He had seen the spread of crime come into Idaho from Oregon and saw the need for strengthening the laws surrounding the issues. He wanted to make sure drugs did not have a place in Idaho.

Senator Wintrow said she would be voting against **H 7**. **Senator Wintrow** agreed that the fine was not a deterrent but a punishment. She added this legislation was not about legalizing marijuana or about medical marijuana. It was about punishment.

Senator Lakey explained he would be voting for **H 7**. He stated the judges had discretion in the majority of things, but the Legislature also had the discretion to establish policy in the form of mandatory minimums. **Senator Lakey** said he believed the mandatory minimum would be a deterrent and would send a message that Idaho would not tolerate drugs. He added that he appreciated law enforcement's involvement in this legislation.

The motion carried by **voice vote**. **Senators Ruchti** and **Wintrow** asked to be recorded as voting nay.

ADJOURNED:

There being no further business to come before the Committee, **Chairman Lakey** adjourned the meeting at 3:05 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Senate Judiciary & Rules Committee

Monday, February 10, 2025 - 1:30 P.M.

TESTIMONY ON: All Subjects

Written Testimony

Name (First & Last)	Subject	Manner Testifying	Representing Company/Organization	City	For / Against	Wish to Testify	District #
Jeremy Kitzhaber	H 7	IP	Representing myself	BOISE	Against	Y	15

I am against this legislation because it would create an imbalance within our state laws compared to ALL other misdemeanors in Idaho. If HB 7 is passed, it would be disproportionate to all other misdemeanors in the state of Idaho and show a specific target for only one specific crime and be significantly inconsistent with all other Idaho statutes and Laws. It would allow for discretion by the Police and Prosecuting Attorneys whether to issue a citation or not or proceed with a case or not but deny judges the discretion choosing to issue or not issue a monetary fine during sentencing. This would be the only misdemeanor crime where a judge must impose a fine regardless of the circumstances. In the 89 chapters of Idaho Statutes under TITLE 18, CRIMES AND PUNISHMENTS, there is no other misdemeanor that mandates any monetary minimum penalty for a first offence whatsoever and most don't for repeated offences. Even misdemeanors that are crimes of violence or put the safety of the public at significant risk do not mandate a minimum mandatory fine including misdemeanor domestic violence, battery, assault, indecent exposure, and DUI.

Mark McConnell	H 7	V	Self	Boise	Against	Y	19
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Dear Esteemed Committee Members:

Thank you for this opportunity to speak in opposition to HB007. I am speaking on my own behalf and not on behalf of the VA or another organization. I live in Boise and I am a critical care physician at the Boise VA Medical Center. I also have 12 years of experience as a reserve sheriff deputy. In my work at the VA I admit veterans to the hospital on a daily basis. The average age of these patients is about 65-70 years old. At least 30% of the patients I admit to the hospital admit to regular use of marijuana. This is just the patients that admit to use. I am sure the actual percentage is higher. These patients use marijuana to self-medicate for chronic pain, PTSD, insomnia, and other reasons. In their estimation, it is safer and easier to use marijuana than to become addicted to opioids or Valium. Since marijuana is still illegal in Idaho, physicians cannot prescribe it for their patients. So patients must risk fines and jail sentences in order to obtain it. If marijuana were legal, I am sure many of my colleagues would prescribe it over other pain medications for treating some of our veterans' chronic conditions due to the risks that opioids and other medications pose.

Name (First & Last)	Subject	Manner Testifying	Representing Company/Organization	City	For / Against	Wish to Testify	District #
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Mark McConnell	cont.						19
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I understand the political realities of politicians appearing tough on crime, but I believe that you will be hurting the wrong people if you pass this legislation. My veterans will suffer because of this legislation, since most of them are poor and live on social security and their VA benefits. These are the people who you will be impacting with this legislation. If you still believe that increasing mandatory minimum fines and sentencing for marijuana possession is important, then I would ask you to consider making a provision in the law for a medical marijuana exception.

Thank you,
Mark McConnell, M.D.

Trent Clark	H 7	V	Idaho Families, Inc.	SODA SPRINGS	For	Y	35
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TESTIMONY ON HOUSE BILL 7,
ESTABLISHING A STANDARD MINIMUM PENALTY FOR CANNABIS POSSESSION IN IDAHO

Introduction Chairman Lakey and members of the Committee. I represent Idaho Families, Inc., an educational non-profit active in Idaho for over 20 years and currently comprised of a network of over 15,000 families in the state.

Some of you may remember us under our former name, United Families Idaho, and recall we were the lead grassroots advocate for the Constitutional Amendment defining marriage in Idaho.

Our statement of priorities as an organization compels us to testify in favor of HB 7.

We believe many of the questions raised concerning HB 7 have clear and unequivocal answers.

Is there a precedent for criminalizing possession of something? Yes. If the public health and safety is at risk from a substance, AND its beneficial uses are dubious, minimal or easily achieved with a non-hazardous alternative, U.S. and state laws limiting possession of that substance are precedented.

Examples of prohibited possessions include: Molotov cocktails, Chevaline (horse meat), Radar Jamming equipment and Coca Tea (steeped leaves of the Erythroxylen coca plant). In every case the formula applies: a beneficial use is possible, even likely in rare cases, but improper use produces severe harm, even disastrous to the point that simple tort redress might be impossible.

Idaho is not the only state to find the possession of cannabis harmful to the point of making it illegal: We join Georgia, Indiana, Iowa, Kansas, Kentucky, Mississippi, Nebraska, North Carolina, South Carolina, Tennessee, Texas, Wisconsin and Wyoming in that conclusion.

What risks does possession of cannabis pose? Up until recently, clinical population studies of cannabis and cannabis extract ingestion have been rare. Legalization in Colorado just over a decade ago opened the door to population study, and new findings are just now

Name (First & Last)	Subject	Manner Testifying	Representing Company/Organization	City	For / Against	Wish to Testify	District #
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Trent Clark	<i>cont.</i>						35
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available. They include the following:

(1) Previous cannabis health assessments were flawed by relying on THC levels associated with varieties prior to genetic enhancement. "Genetic modification has drastically increased THC potency; from 1995 to 2015 there has been a 212 percent increase in its content in the average cannabis plant."

(2) The risk of marijuana for young people has been significantly understated. "A common misperception among youth is that marijuana use is without harm. However, adolescent marijuana use may have measurable, durable, and potentially irreversible effects on later cognitive function and mental health."

(3) Marijuana's necessity as a pain reliever is questionable. Pain relief has been reported from use of marijuana, but 2022 cohort study of peer-reviewed science looking at cannabis as a pain reliever showed it to be statistically undistinguishable from placebo.

Is a uniform minimum fine necessary? The National Institute of Justice, the research arm of the U.S. Department of Justice, has found that the most important elements of deterrence are (1) certainty that a crime will be punished, and (2) consistency with which that punishment is applied.

Idaho Families, Inc. believes cannabis use has devastating consequences to the neurological systems of youth, and minimal pain relief benefit. Prevention of such harm is best achieved by prohibiting possession, as compensatory financial relief by a court offers no true reversal of lost or impaired life. And since the goal is deterrence, uniform but consistent penalty, even though in this case it is comparatively small, will improve the effectiveness of the deterrence.

Thank you.

Sincerely,

TRENT L. CLARK, Chair

Daniel Murphy	H 7	IP	Self	Boise	For	Y	18
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I support Rep. Bruce Skaug's H7 Legislation.

Amy Dundon	H 7	W	ACLU of Idaho	Boise	Against	N	19
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Name (First & Last)	Subject	Manner Testifying	Representing Company/Organization	City	For / Against	Wish to Testify	District #
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Amy Dundon

cont.

19

WRITTEN TESTIMONY OPPOSING HOUSE BILL 07
 Submitted To the Idaho Senate Judiciary and Rules Committee
 by the American Civil Liberties Union of Idaho

Chairman Lakey and Committee Members,

The ACLU of Idaho and ACLU oppose House Bill 07 (HB 7). If passed, the bill would add a mandatory fine for possession of a small amount of marijuana – leaving all other existing penalties in place. The bill would, therefore, serve only to further criminalize a nonviolent and victimless crime. It also raises concerns for Idahoans’ due process and equal protection rights, and about judicial discretion and legislative overreach. It would worsen ongoing social and economic inequality – further entrenching already uneven access to justice across Idaho.

Crucially, HB 7 would have significant consequences for the State Public Defender’s Office (SPD): the bill would almost certainly increase demand for public defenders, amplifying significant faults in Idaho’s deficient public defense system – issues that prompted our unresolved, decade-old legal challenge, Tucker v. State of Idaho. HB 7 poses real threats to the already precarious, newly consolidated statewide system detailed in our recent emergency motion against the state; the bill comes at a time when mass resignations, lengthy pretrial detentions, untenable caseloads, and other structural deficiencies continue to threaten basic, fundamental rights of tens of thousands of indigent Idahoans.

The mandatory \$300 fine simply increases the already high costs of low-level drug offenses in Idaho. That is, Idaho Code already stipulates misdemeanor charges and up to \$1000 in fines, plus other court fees, at the discretion of the court. Adding a minimum fine would not only rob judges of discretion, it would mean Idahoans unable to afford court fines would face longer probation periods and overall higher costs (incurred from court-arranged payment plans) - and, ultimately, more Idaho tax dollars funneled into government processes.

The economic burden on low-income Idahoans leaves open questions about whether HB 7 could be interpreted as imposing an unfair penalty on a low-level crime. There are also concerns that non-payment of court fines could lead to longer probation periods, or even more serious charges. In fact, much of HB 7 counter to protections against unequal treatment under the law, which, courts have found, also protect against excessive fines. HB 7, in inflicting a mandatory fine for a low-level possession offense could be challenged as excessive, particularly if the individual facing conviction has no prior criminal or drug-related offenses, and if the incident does not involve aggravating circumstances.

Name (First & Last)	Subject	Manner Testifying	Representing Company/Organization	City	For / Against	Wish to Testify	District #
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Amy Dundon	cont.						19
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Mandatory minimum fees contribute to a “cycle of debt,” where an inability to pay for private counsel, court fines and fees, almost always causes higher overall costs paid to the criminal legal system – a higher cost, to be clear, charged to Idahoans already struggling to make ends meet. For instance, a person that can’t afford to pay over a thousand dollars in fines may establish a payment plan with the court, a service available for a monthly fee. Folks may also face more serious charges, like contempt, for failure to pay, putting more Idahoans at risk of arrest, more arrests, and even more overcrowding in Idaho prisons and jails.

Idaho judges are the most experienced and highest paid officials in the judiciary. The bill before you today would rob our judges of their power and sworn duty to make reasonable decisions, based on the facts of the case before them, in ways that are rooted in their individual evaluation and principles of law. Judges are trained to assess the particular facts of a given case and order sentencing based on those specific facts.

Judicial discretion is a pillar of our justice system and, indeed, our democracy. Such discretion ensures political independence of the judicial branch and protects the constitutional doctrine that the three branches of government are kept separate. Forcing our judges to impose an arbitrary fine – without regard to the specific facts of the case – would significantly undermine the bedrock principle of judicial discretion, while also causing harm to our justice system writ large.

Should HB 7 pass, it could lead to increased surveillance or monitoring of individuals, particularly given its provision of penalties for being present at the site of suspected illegal activity. Increased surveillance raise serious concerns for Idahoans’ right to privacy. We also fear the bill could lead to increased surveillance of private activities in public spaces, raising concerns about not only the right to privacy, but also the potential for overreach in enforcement, and in potentially uneven, targeted ways.

The imposition of a mandatory minimum fine of \$300, combined with the possibility of a \$1,000 fine and jail time for a misdemeanor charge, raises concerns that additional punishments engendered by HB 7 amount to disproportionate punishment, relative to the offense. The Constitution prohibits imposing unusual punishments – including those that do not mirror the seriousness of the offense. Idaho law already allows for misdemeanor charges, including financial penalties and confinement; we worry tacking on additional and mandatory fines for relatively minor offenses may violate the principle of proportionality in punishment.

We urge your opposition to this needless bill.

Respectfully,

Name (First & Last)	Subject	Manner Testifying	Representing Company/Organization	City	For / Against	Wish to Testify	District #
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Amy Dundon	cont.						19
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Amy Dundon, Legislative Strategist
 ACLU of Idaho

Victor Miller	H 7	IP	self	Meridian	For	Y	14
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Victor Miller
 Statement to Senate State Affairs Committee
 WW55 – 8:00AM - Monday January 10

Senator Guthrie and Senate Affairs Committee –

The evidence of the significantly negative impact of marijuana on society is growing.

Personal health suffers. Two days ago, Alex Berenson, author of the 2019 book “Tell Your Children: The Truth About Marijuana, Mental Illness and Violence” summarized results of a JAMA Network Open study, published just last week, that included more than a half a million people in Ontario Canada over a 15-year period. The conclusions: “problematic cannabis use was linked to 10x risk of suicide death, 5x risk of overdose, 5x risk of trauma death (car accidents) and 4x risk of lung cancer.”

The National Institute on Drug Abuse includes earlier onset of psychosis and schizophrenia to that list.

The community suffers. A 2022 study published by the Journal of Studies on Alcohol and Drugs concluded: “In Colorado, Washington, and Oregon, injury crash rates increased after marijuana use was legalized, then increased again after retail sales began; overall increases ranged from 8% to 18%.”

Businesses suffer: According to a 2023 Quest Diagnostics report use of marijuana is making the workplace more dangerous. Quest said: “Over the last five years, in general workforce urine testing, overall post-accident positivity increased 22.6% (8.4% in 2018 versus

Name (First & Last)	Subject	Manner Testifying	Representing Company/Organization	City	For / Against	Wish to Testify	District #
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10.3% in 2022).” A 2024 study published in the American Journal of Preventative Medicine analyzed data on nearly 46,500 people said that those who used marijuana once or twice during the last month were 57% more likely to skip work than non-users. Heavy-users (20-30 times in the last month) were 83% more likely.

And because they are involved with almost every aspect I’ve discussed law enforcement becomes more overburdened.

The national tide of legalizing drugs is turning. Initiatives to legalize recreational marijuana in Florida, South Dakota and North Dakota all failed.

Unlawful drugs threaten every aspect of Idahoan’s health. Idaho leads protecting families. Let’s send a clear message that using marijuana in Idaho is an unwise decision.

Thad Butterworth	H 7	IP	Ada County Republicans	Meridian	For	Y	21
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The Idaho State Republican past voted overwhelmingly in favor of a resolution calling for enhanced penalties for Marijuana usages a method of protecting our children.

Increasing the minimum fines will help deter people from usage.

As a business owner I had to fire people who were using. None of them were afraid of getting caught because the fines were not heavy enough.

I highly encourage this committee to pass this to the floor with a do pass recommendation.