

LEGISLATIVE COUNCIL

Capitol Building
House Majority Caucus Room
Boise, Idaho
June 3, 2011

MINUTES

The meeting was called to order at 8:00 a.m. by Co-chair Pro Tem Brent Hill. Legislative Council members in attendance were Senators Bart Davis, Steve Bair, Jim Hammond, Edgar Malepeai, Les Bock and Nicole LeFavour; Co-chair Speaker Lawrence Denney, Representatives Mike Moyle, John Rusche, Donna Pence and Bill Killen. Representative George Eskridge was in attendance by teleconference. Representative Gary Collins was absent and excused.

Also in attendance or participating in the meeting were: Senator Diane Bilyeau, Representative Scott Bedke, Mary Sue Jones, Diane Kelly, Sue Frieders, Bonnie Alexander, Terri Franks-Smith, Jeff Youtz, Cathy Holland-Smith, Don Berg, Glenn Harris, Mike Nugent, Rakesh Mohan, Michelle O'Brien, Rande Trueax, Robyn Lockett, Kristin Ford, Katharine Gerrity, Margaret Major, Richard Burns, Keith Bybee, Matt Ellsworth, Paul Headlee, Ray Houston, Amy Johnson, Wayne Hammond, Bryon Welch, Lance McCleve, Hannah Crumrine and Betsy Russell.

Minutes of the November 5, 2010 Legislative Council meeting were approved on a motion by Senator Nicole LeFavour and a second by Representative Rusche.

LSO DIRECTOR'S REPORT

Legislative Services Office Director Jeff Youtz reported that, despite having undergone budget crunches, the office remains strong and vibrant. The staff is willing to do whatever it takes to get the job done effectively, and Mr. Youtz asked the Council for feedback on how staff is doing. Budget cuts have resulted in a reduced number of staff as opposed to maintaining a larger staff but requiring them to take furloughs. LSO has a balanced budget, while working with general funds that have been reduced by 20% since four years ago. Six FTPs and four to five session-only positions have been eliminated. The Legislature is the best gauge of how effective staff is being and of what could be done differently.

Operating expenses are still a challenge. Personnel costs are 95% of the LSO budget. Mr. Youtz said he would like to be able to allow staff to travel for additional training to such conferences as CSG-WEST or NCSL, but budget constraints make that impossible. He went on to report that morale is good in the office and that the staff is doing well overall. He reported two staff retirements, Gene Sparks from Legislative Audits and Paige Parker from the Research and Legislation staff. In addition, the Information Technology Division lost Adam Martineau to the private sector.

The 2011 legislative session saw an unprecedented number of public hearings. Staff was pulled in from all over the building to help with crowd control due to the sheer number of people. The hearings went very well and the citizen participation was remarkable. Mr. Youtz recommended

that written protocols or the development of a check list to be followed in setting up these large public hearings.

Idaho Legislature Live is a terrific partnership with Idaho Public Television, which has done a tremendous job for the Legislature with no operating support. This could possibly be addressed at the fall Legislative Council meeting. The Legislature could consider providing some help as IPTV has faced some challenging budget cuts. LSO does provide some equipment for Legislature Live and there are improvements each year to the programming. This year the bill numbers were added to the screen. IPTV helps to make the Legislature more accessible to all Idaho citizens. In addition, IPTV staff makes CD and DVD copies of meetings and floor action upon request and provides them at no charge to the public. The policy developed by the Council and IPTV to keep recordings for only seven days may need to be revisited at a later date. IPTV does not archive committee or floor action, so the official records remain committee minutes and House and Senate journals.

Representative Killen asked if it would be possible for LSO to keep a copy of the CDs distributed. Mr. Youtz said copies of the request forms are kept by LSO. The forms have the names, contact information and request on them, but not a disk itself. It would be possible to get duplicate copies, but it would also be outside the Council's policy decision not to archive recordings longer than seven days. Following further discussion, agreement was reached to not have the videos archived to protect the Senate and House Journals as being the official legislative records, but for LSO to keep a copy of the CDs that are sent out. If someone would then try and change a video to bring harm to a legislator there would be a digital archive of the event.

GEMS has been a very successful tool in managing legislative information. The system is in its third year of operation, and the development staff continues to program and fine tune the system. Interim work will include making the system easier to use for committee secretaries who come into the job with varying degrees of expertise. Staff plans on making GEMS easier to use for session staff by combining simplification of the system and added training for users.

Redistricting is beginning, and LSO has several staff involved in the organization, set-up and support of the Redistricting Commission. For the past three years, Kristin Ford and Keith Bybee have done an excellent job of planning and organizing for redistricting.

Representative Rusche asked if Legislature Live can be recorded over the Internet. Mr. Youtz explained that LSO can't control what someone does on their home computer. Once the information goes out it is vulnerable. For recording copies LSO distributes, there is a specific form that must be filled out and signed either by leadership or the Director of LSO.

Representative Rusche said he and his caucus felt a lack of analytic financial support for bills and RSs. He understands that LSO staff is trying to do more and more with fewer resources; however, members of his caucus think if you are not a chair or a JFAC member, you do not get the information needed for developing bills and RSs. Mr. Youtz said this is due to a lack of resources and that the lower numbers of staff for the appropriations process has made it more difficult for legislators. There is currently one budget analyst for Health & Welfare and one analyst for both public and higher education. He said he would love to have more staff to be able to provide more support for all members. Representative Rusche wanted to emphasize that this

was not a criticism, but that it makes it difficult to have to rely more on the executive branch and also on the departments themselves as a backup for the citizen Legislature.

Senator Hammond again addressed the difficulty of getting enough fiscal information for bills and stated that the difficulty was for all members and not just for Representative Rusche's caucus. Representative Rusche agreed that because of the increase in such significant issues this session as the education plan, higher education, and Health & Welfare, it was hard even to know who to talk to about simple bills.

Information Technology

There were many IT changes this session after Marshall Pinkston's retirement. Glenn Harris and Soren Jacobsen began handling the Help Desk, while Jeff McFarland and Adam Martineau handled more of the behind-the-scenes work. Shortly after the session adjourned, Adam Martineau resigned to accept a position in the private sector. LSO is currently in the process of hiring his replacement.

Other technology changes included replacing WordPerfect with Word; providing laptops to committee secretaries with the ability to use them in the committee rooms; upgrades and new additions to the mobile wireless network and real-time notification of selected committees via Twitter. There were some problems with the wireless network during the session, which Adam corrected before he left. His replacement will also have the task of going back over the network to ensure its capabilities and that the automatic access point adjustment feature will function better.

There was a definite uptick in legislators using iPads and smartphones during session. IT staff will continue to monitor their usage and try to develop a program for legislators to replace laptops with iPads or another type of similar technology. According to the recently completed IT survey, over 60% of legislators are interested in replacing their laptops with these smaller devices.

During the interim, projects will include improving the wireless network, making requested improvements in GEMS, in addition to determining which printers should be repaired or replaced.

GEMS

GEMS has been very successful in providing accuracy, efficiency and timely legislative information, but there were complaints from committee secretaries that the system is difficult to use. It seems the session staff does not like GEMS, yet LSO staff, who has more experience with GEMS, does like the system. In particular, session staff find the Arbortext Editor more difficult to use than Word, which can only be used for certain documents.

There were also problems with the wireless network, which is not a GEMS issue, causing information to be lost in moving from an office to a committee room and back. The wireless network issues are being managed now by adding more access points, and the usability of GEMS can be improved by additional training in the program for session employees. Training would be handled through an ongoing GEMS team including Norma Clark, Noreen Chen and Glenn Harris from LSO, and both House and Senate staff, including Bonnie Alexander, Sue Frieders, Jeannine

Wood and Mary Sue Jones. It would help to have a clearinghouse group to review problems and suggest and approve changes to GEMS.

Representative Rusche indicated that it is difficult to get to rules indexing on iPads, and Senator Davis said he also had issues with his iPad and smartphone. Speaker Denney said the secretaries were very frustrated with GEMS and he is very glad that the problem is being addressed and hopes that a fix will be implemented rapidly. Pro Tem Hill questioned the use of Arbortext. Mr. Harris said his staff will be implementing auto-backups for GEMS information to cure the problem of it getting “lost.” In response to a question from Pro Tem Hill, Mr. Harris said IT is operating with eight positions, four in IT and four in GEMS. This is a loss of one position from two years ago. These eight people support around 300 during the legislative session.

Budget and Policy Analysis

This session saw four days of joint budget hearings with the Senate and House Education committees as well as the Health & Welfare committees. These were very unusual and JFAC does not plan to make it the new norm. The hearings were not planned to discuss policy issues, but rather the budgets of the departments being discussed. However, because of the introduction of “Students Come First” and significant Health and Welfare issues, much of the testimony was issue oriented. The JFAC co-chairs had decided not to ask questions of the people who came to testify, but to give them the floor for three minutes each to relay their opinion on the budgets for the departments. As far as the organization, the hearings were successful. There was much preparation in advance from the entire Budget & Policy staff, and staff from around the building did whatever they could to help support a good outcome for the hearings. Budget & Policy received very positive feedback on the meetings from the general public as well as others in the building.

Concerning budget setting, it had been decided that three weeks would be the correct time frame. It was difficult to set the Education and Health & Welfare budgets in the last two days, but it could not be helped with the types of appropriation bills they were. Even though Health & Welfare’s budget was reduced to only one bill, it was still a large multi-paged bill. However, it did help to reduce the workload.

The major changes in GEMS worked well for the Budget & Policy staff by reducing the workload. However, the staff still worked long hours with many time constraints and was stretched very thin.

Representative Rusche indicated that he and his caucus find it very difficult to get information on the different bills being put out by Budget & Policy. Ms. Holland-Smith encouraged Representative Rusche to share these concerns with the co-chairs of JFAC to see what their input is to help the situation. Staff would like to be able to help more but, with the time constraints and reduction of staff due to budget cuts, their ability to provide support to other than JFAC members is limited.

Research and Legislation

Mike Nugent began his discussion by acknowledging that five bills came out of Research & Legislation with flaws, which he feels is unacceptable. He pledges to the Legislative Council that this will be corrected during the interim. Mr. Nugent also agrees that GEMS works very

well for the Research & Legislation staff in management and production of bills. During the next few weeks they will be hiring a new analyst to replace Paige Parker who recently retired.

Legislative Audits

Don Berg reviewed all of the activities that the Audits Division has completed thus far. During FY10 audit period staff completed the Statewide CAFR, the Statewide Single Audit, performed 10 separate entity audits and 25 management reviews of state agencies. There is \$145 million remaining in the ARRA funds. Eleven agencies have been added to the Statewide Single Audit workload. During the performance of the Single Audit, the auditors test for federal compliance and program issues with cash management. These must be followed as the federal government sets the requirements. Pro Tem Hill questioned what would happen if an agency failed the federal compliance test. Mr. Berg said there could be a drop in federal dollars, not as a measure to hurt states, but to make sure they are following reporting guidelines for cash management. There were new audit and accounting standards issued during FY 2010-11, which included new compliance tests for ARRA funding and reporting as well as changes to financial presentations of equity.

There have been several changes in the audit staff. One Managing Auditor, Gene Sparks, retired and Patrick Aggers was promoted to fill this position, creating room for other auditors to move up the audit career ladder. This means there are now two vacant positions to fill. In addition, two auditors are now Certified Fraud Examiners.

Mr. Berg helped with four pieces of legislation this past session and hopes to help with future legislation as well. Other activities of the Audit Division include follow up on the Medicaid OPE report and the Molina contractor issues, as well as amending state travel policies. In response to a question by Senator Hammond, Mr. Berg stated that there are currently 26 large programs (over \$11 million) that must have the Single Audit and it will become a workload issue for his staff.

In response to a question by Representative Rusche, Mr. Berg said that program options for remediation or correction of a finding can vary. The resolution process can be lengthy, up to four years. Legislation Mr. Berg would like to see in the future includes creation of a whistleblower-protection program as well as dividing up small agencies that fall under a larger agency's jurisdiction. Pro Tem Hill wondered how states that currently have whistleblower programs function. Who administers the program? Mr. Berg answered that in most cases it is a division of the Attorney General's Office, the State Controller's Office or the State Audit Division. He went on to say some states may only have two or three calls a month, but that even one call can uncover a fraudulent situation. Mr. Youtz interjected that most fraud isn't caught in the audit process but in tips from employees and users of a program. Mr. Berg agreed that audits are not a catalyst for catching fraud. Representative Rusche had questions about Molina and the accuracy of claims. Mr. Berg answered that \$100 million was paid out to providers and that they (providers) cannot currently identify appropriately where the funds went.

INTERIM COMMITTEE APPOINTMENTS

Senator Davis voiced his opinion that the size of the committee should not grow with ad hoc members. He said that historically committee makeup was a percent of the split between the

Democrats and Republicans. Following general discussion about the number of meetings and the policy of naming ad hoc members to interim committees, Pro Tem Hill said Legislative Council decides the number of members to appoint if the number is not defined in the authorizing resolution. Representative Rusche asked for input from Representative Eskridge, co-chair of the Energy, Environment and Technology Interim Committee, who said he had no problem with adding ad-hoc members as long as it is an equal number on both the House and Senate side. In response to a question from Representative Moyle, the Pro Tem and the Speaker indicated that the concurrent resolutions do not limit the number of meetings, nor do they indicate how many times it is adequate to meet. Senator Davis said historically it is up to the chairs of committees to help define the scope and time a committee needs to accomplish its work, and that the Pro Tem and the Speaker are available to provide support and assistance for the chairman of a committee to figure out how many times it is appropriate for a committee to meet.

Speaker Denney made the motion to accept the members as listed below, with an ad-hoc member on the Senate side in addition to the spot to be filled by a full Senate Republican member. This also includes adding Representative Cronin as a Democrat ad hoc member. The Democratic ad hoc member on the Senate side is to be determined by Senator Malepeai. (Senator Schmidt was subsequently appointed; one voting member on the Senate side remains undetermined.) This motion, seconded by Senator Bair, passed unanimously on a voice vote.

Energy, Environment & Technology Committee

SENATE

McKenzie (Co-chair)
 Lodge
 Fulcher
 Bair
 Tippetts
To be determined
 Werk
 Schmidt (Ad Hoc)

HOUSE

Eskridge (Co-chair)
 Bell
 Stevenson
 Anderson
 Thompson
 DeMordaunt
 Jaquet
 Cronin (Ad Hoc)

The following members of the Food Quality Assurance Institute were approved unanimously on a motion from Representative Rusche and a second by Representative Mike Moyle.

Food Quality Assurance Institute

SENATE

Corder
 Malepeai

HOUSE

Patrick
 King

Council members discussed a definition of the Health Care Task Force. Representative Rusche said it began to determine the high-risk reinsurance pool and has developed more into a task force, and wondered if the membership needed to be adjusted to reflect that transition. A motion

to approve the following list of members was made by Speaker Denney. After a second by Representative Moyle the motion passed unanimously on a voice vote.

Health Care Task Force

SENATE

Cameron (Co-chair)
Stegner
Goedde
Lodge
Corder
McGee
Schmidt

HOUSE

Collins (Co-chair)
Block
Bilbao
F. Wood
McGeachin
Rusche
E. Smith

A motion to approve the following members of the Idaho Housing and Finance Committee, made by Representative Rusche and seconded by Representative Moyle, was approved.

Idaho Housing & Finance Association

SENATE

Mortimer
Malepeai

HOUSE

Boyle
E. Smith

A motion to approve the co-chairs of the Joint Legislative Oversight Committee listed below was made by Senator Malepeai and seconded by Representative Rusche. The motion was approved.

JLOC

SENATE

Werk (Co-chair)
Hammond
Mortimer
Stennett

HOUSE

Bayer (Co-chair)
Bell
E. Smith
Ringo

Members of the Natural Resources Interim Committee were approved as follows on a motion by Speaker Denney and a seconded by Representative Moyle.

Natural Resources Interim Committee

SENATE

Pearce (Co-chair)
Bair
Siddoway
Heider
Stennett

HOUSE

Raybould (Co-chair)
Stevenson
Bedke
Moyle
Pence

Cameron (Ad Hoc)
Brackett (Ad Hoc)
Fulcher (Ad Hoc)

Andrus (Ad Hoc)
Vander Woude (Ad Hoc)
Burgoyne (Ad Hoc)

Members of the Pacific Fisheries Legislative Task force were approved as follows on a motion by Senator Hammond, seconded by Representative Rusche.

Pacific Fisheries Legislative Task Force

SENATE

Stegner
Stennett

HOUSE

F. Wood
Ringo

Speaker Denney concluded the interim committee discussion by noting that there are now 44 special committees and task forces on the books, in addition to the standing and official interim committees. Sue Frieders and Mary Sue Jones have recently updated the membership lists of these committees based on appointment letters from the Speaker and the Pro Tem. He suggested that the list be looked at for the fall Legislative Council meeting for review.

CAPITOL SERVICES COMMITTEE

Capitol Services Coordinator Robyn Lockett began her presentation with a review of the Capitol Tour Program. During 2010 tours were provided to over 15,000 visitors by 30 docents. During the legislative session, legislators were invited to meet the tour groups from their districts. The Capitol Building is open daily for unscheduled self-guided tours. Currently for 2011 there have been 10,100 visitors on guided tours led by 15 docents, a number that drops during the interim.

In 2010 the Capitol Gift Shop sold 13,113 items with gross sales of \$79,187, an average daily sale of \$297. The Gift Shop is 80% self-sustaining. Once the Gift Shop can fully fund itself the overages will go into a fund for projects within the Capitol Building. Pro Tem Hill asked about session sales compared with the rest of the year. Ms. Lockett responded that during April and May sales can be down but that they pick back up in June, July and August. Currently 93 out of the 99 vendors used by the Gift Shop are Idaho vendors. Recently, the Gift Shop went online and purchases can now be made over the Internet. In response to a question from Representative Rusche about online sales tax, Ms. Lockett said the site does collect online sales tax.

Ronda DeGiorgio, owner/manager of Rooster's Eatery, extended her thanks through Ms. Lockett for the opportunity to serve the Legislature during session. Ms. DeGiorgio is under contract through June 30, 2012. This session the Capitol Dining Room was opened to the public. Ms. DeGiorgio experienced a 32% increase in business over last year. In addition, 95 meal cards were sold to legislators this year, representing 60% of the dining room business. Representative Moyle questioned if legislators were going to be required to buy the prepaid cards again next year. Ms. Lockett answered that this idea could be visited at the next Capitol Services Committee meeting, which will take place before Legislative Council in the fall. Representative Bedke, as a spokesman for the committee, answered that Ms. Degiorgio currently has one more year on her contract and that expectations would need to be checked before changing the rules. She may feel that it is part of her guarantee that the legislators will purchase the cards to fund the Dining

Room. Pro Tem Hill said maybe the requirement to purchase meal cards could be eliminated after Rooster's contract has expired. Representative Moyle indicated that there are members who will begin to refuse to purchase the cards and Representative Killen questioned whether there could be some kind of incentive for purchasing them (i.e. a discount of some type).

Ms. Lockett then moved on to discuss the Legislative Information Center, which took in 7,551 phone messages, 3,574 email messages, 3,171 faxes and scans, and had outgoing mail of 27,512 pieces. A staff of four dealt with this influx of communication. Various companies and entities used the Legislative Information Center phone number for their ads, which meant a total of 1,500 phone messages left after hours during one week of the session.

Representative Bedke took the floor to begin discussions on the facility and improvements up for vote. The first item up for discussion was the Capitol Auditorium and changes that could be made. The emergency exit routinely becomes blocked by camera crews, and the suggestion was made to move the access box to the other side of the auditorium. This would put the press table and camera crews on the same side. Four to six chairs would be removed from the front row to accommodate this move and to add more power outlets. The changes would not detract from the ambiance of the room.

Several questions were asked by Pro Tem Hill, Senators Bair and Hammond, and Representative Rusche as to the logistics of the move and if more power outlets could be added for people who sit in the audience and end up stretching power cords for computers across the aisle. Pro Tem Hill pointed out that there may be the possibility of adding more power outlets but, because the floors in the auditorium are concrete, it would be expensive to come up with a plan. Betsy Russell, president of the Capitol Correspondents, was asked if the press was okay with the proposed changes, to which she replied in the affirmative. A motion was made by Representative Killen to give the Legislative Services Office the authority to design a dedicated Press Area in the Capitol Auditorium to include moving the A/V box, remove six to eight seats from the front row to make room for tables with the cost not to exceed \$1500. The motion, seconded by Representative Rusche, passed unanimously on a voice vote.

The next item on the agenda was to consider acceptance of a single sheet of rules for the press that had been combined from various statutes. Betsy Russell was invited to speak again about the list. She believes it is important to have all the rules written down in one place so that new security members or new staff members know what the rules are and that they are consistent. Representative Moyle believes the proposed list goes beyond the existing rules and needs to be reviewed. This list is very concerning to him. Senator Davis does not believe that request to be inappropriate, but thinks the list seems to suggest how the Legislature has done it in the past, maybe not what the policy should be. Many other points concerning the press rules came from Pro Tem Hill, Senator LeFavour, Representatives Killen and Rusche, and the Speaker. The general consensus was that committee rooms are already overcrowded at times and, while it would be wonderful for both the speaker and the legislators to be viewed on camera, because of the set-up of committee rooms and rules against any person being in the well area, it is difficult to give total access privileges to the press. The general consensus was also that there are logistical differences between the old Capitol, the Annex and the new Capitol committee rooms. Representative Bedke felt that there were expectations from the press for Legislative Council to decide what to do with this issue. Senator Davis moved to accept the press guidelines with two changes: omitting the word "shall" from point 4 and replacing it with may, and on point 6, line 8

“needed...with the prior consent of that committee chair.” Representative Rusche seconded this motion. Before voting, comments were taken including Senator Davis’ statement that the press does currently have access to the elevators and he has not seen abuse and is content to keep protocols as they have been. Representative Moyle voiced his concern with the elevators. Most legislators feel these should be “neutral zones” and if the press has full access to the elevators that let out by representatives’ offices they lose some privacy. Representative Moyle made a substitute motion to hold this issue for consideration at the November Legislative Council meeting. The substitute motion, seconded by Representative Killen, passed on a voice vote.

Representative Bedke introduced the topic of having military history displays in the 3rd floor Public Lounge. Senator Bair questioned if the displays would impede visitors from watching the TVs in the Lounge which is used for overflow of committee’s and chamber sessions. The Capitol Services Committee voted against any permanent display, but supported allowing a rotating display that would not impede traffic or the televisions in the room. The motion was made by Representative Rusche to accept the recommendation of the Capitol Services Committee to allow rotating exhibits in the 3rd floor Public Lounge. After a second by Representative Killen, the motion passed. The discussion about if or what should be done with the tunnel murals was also begun. This is something on which Representative Rusche would like to see a proposal before the Council begins voting. The decision was made to address this issue at the next Capitol Services Committee and to develop a proposal for Legislative Council consideration.

REDISTRICTING UPDATE

Keith Bybee, who is working with Kristin Ford as nonpartisan staff supporting the Redistricting Commission, began discussing the meeting agendas for the upcoming Redistricting Commission. He also discussed the secure rooms set aside for the commission and the need for IT staff to have access to one of the secure rooms because their server room is located there. Capitol Security also has one key to the rooms, but it will only be used in the event of an emergency. This generated discussion by Representative Rusche and Senators Davis, LeFavour and Hammond as to whether there is a way to monitor entry to the room by camera, and if there could be a more impartial entity to keep this extra key for the Capitol security officers. This will be checked into by Jeff Youtz.

Mr. Bybee then moved on to discuss the maps being generated by the public. Representative Rusche was impressed at the number of maps already submitted, and Pro Tem Hill inquired as to the differences between the online version and the version being used by the commission. The main differences are that the online version cannot print to the large plotter printer and that the public can electronically send a map they have made to another person, but that recipient cannot make changes on the map itself. Ms. Ford stated that Idaho is the first state to enable the public to use the mapping system and send their recommendations to the commission. The users of the system have privacy and, at any given moment eight to nine people are online working on a plan that they can e-mail to another person. Senator Hammond asked if the commission will be putting together various plans and then getting public feedback on the maps generated. Ms. Ford answered that, yes, the commission has been encouraged to try this. Representatives Killen and Rusche questioned the time frame of the public hearings and if there has been adequate notice for people to prepare for them. He also asked if there is a possibility of opening an online bulletin board for discussion of maps. Ms. Ford said all public hearings will be streamed over the

Internet by Idaho Public Television and that it is up to the commissioners to decide from there what they want to do.

GENERAL FUND BUDGET UPDATE

Cathy Holland-Smith took a few minutes at the beginning of her presentation to introduce and thank her staff. Ms. Holland-Smith's focus was on the status of the General Fund. The June Legislative Council meeting gives everyone a good chance to look back at the statutes passed during the session and what effects they are having and will have on the General Fund and budget.

As far as revenue projections are concerned, there is often confusion as to what are the right numbers. There is the Department of Financial Management's numbers, the Governor's projected numbers and then what the numbers actually are at the end. Currently, the state of Idaho is \$84.7 million ahead of what was forecast. However, that can still go up or down. When it is said that the state has a surplus, it is the revenue that is in excess of what was budgeted for.

In April the state was ahead \$60.2 million, and this was thought to still be related to tax refund issues. In May, the state was ahead \$70.2 million. This did not take into account a promise to the federal government that for education, if revenues were in excess of what was budgeted, a certain percentage of the excess would go to public schools, then professional technical education and then to community colleges. At this time, \$61,363,900 is projected to go to education. This number may adjust up or down as well when it is final and it does depend on April's revenues.

Pro Tem Hill questioned how the money will be kept in FY 2011 when it will be paid out in FY 2012. Ms. Holland-Smith replied that they will close out all agency budgets and determine how much in excess there truly is, then the funds will be backdated to June 30 to make the FY 2011 timeline. That will amount to \$3,500 per unit (student) that will go into the discretionary fund for the school district.

REVENUE FORECASTING PROCESS

This section was presented in combination by Cathy Holland-Smith and Ray Houston. When it comes to revenue forecasting, information can be released with the best of intentions; however, when there is a race to get information from the Tax Commission by both DFM and the Budget & Policy Analysis Division, the information is not always ready for release. Budget & Policy always has numerous requests at the beginning of a month to release revenue collection data. Budget staff became more aggressive in releasing the numbers (generally, 24 hours after they were released and forwarded by the Tax Commission). It also becomes an issue when DFM releases the numbers directly to legislators, or the Tax Commission changes numbers due to last minute adjustments in revenue. The new policy agreement is to release the numbers from the Tax Commission on the fifth business day so they are complete, updated and solid. The General Fund Revenue Report, using numbers from Ray Houston's report, will come out monthly on the fifth business day.

NCSL held a webinar from the Rockefeller Institute and the Pew Center titled "*Cracks in the Crystal Ball*," which discussed revenue forecasting issues. According to the data collected, Idaho is similar to other states in that we overestimate negative errors and underestimate positive

errors. However, when findings are tied to the revenue stream, Idaho is a little less accurate than other states. We, as a state, are largely dependent on individual income tax and sales tax for our revenues and, because of that dependency, we can have great discrepancies in our projected numbers. Again, all forecasters miss the turns in the economy when the national forecasters miss.

Mr. Youtz interjected that according to the Pew Center study, there is no “best” way to forecast revenues; it doesn’t matter what process you use, they all end up equally wrong. Each way is just as hit-and-miss as the other.

Senator Bair stated that it seems from the data the bigger and deeper the recession is the more we seem to miss projections whether negatively or positively. Senator LeFavour indicated that this may be because Idaho had further to fall. In response to a question from Pro Tem Hill, Mr. Houston said it might be possible to study what affects revenues or what affects what the economists use for projections.

Mr. Houston noted that, because of this difficulty in projecting revenues, it is important to do the monthly updates and to reforecast and explain the numbers in a way that everyone can understand. He went on to say that the only way to weather rough economic times is to save when revenues are strong.

Representative Rusche asked if there is a way to manage the volatility. Mr. Houston responded that with one-time revenues and capital gains taxes, a percentage could be saved and that way there are always extra funds when the projections have been wrong.

Ms. Holland-Smith’s final comments indicated it is always good to be able to look back and see how the legislation passed during a session has done in terms of the budget. As a state, we are not out of the woods yet and we need to figure out how to keep some funds in savings.

OFFICE OF PERFORMANCE EVALUATIONS

Director Rakesh Mohan began updating Legislative Council with highlights from the past session. This included studies on the libraries, aging and transportation performance audit. The Joint Legislative Oversight Committee asked for a review of the Molina Medicaid project, which OPE completed in seven weeks. There was \$106 million paid out in contracts to pay providers and 22,000 providers to deal with. They had processed 150,000 claims and three claims were pilot tested. The Department of Health & Welfare and Molina have agreed to fix the problems that were found during the review. JLOC has asked for a follow-up, which OPE will provide.

Pro Tem Hill asked Mr. Berg to step back up for questions and asked if the Audits Division ever worked with OPE on projects. Mr. Berg said his division does do “management letters” and audit updates and encourages updates on audits for things that are not quite a finding but that are a factor. OPE and the Audits Division both review some of the same subject matter in diverse and specific ways. Audits sees the big picture and asks why the agency exists as a state entity. OPE focuses on pin-pointed issues within an agency. OPE has asked Mr. Berg for help occasionally, but because of the different perspectives they do not overlap well.

Mr. Mohan agreed with Mr. Berg that the two offices are very different in their approaches. Mr. Berg performs financial audits and Mr. Mohan provides performance audits. They do have the

need for coordination between the two offices at times, as do the Budget & Policy Division and the Division of Financial Management.

One of the other larger differences is that the Audit Division is on a strict timetable for their financial audits, and OPE can go in whenever directed by JLOC to perform a performance audit.

There are five reports that OPE will be working on this interim. They are a study on “*Higher Education Funding Equity*” (due out in December 2011), “*Barriers to Pursuing Postsecondary Education*” (due out in January 2012), “*Idaho State Lottery*” (due out in January 2012), “*Renal Disease Program*” (due out in November 2011), “and *Creating an Efficiency Commission in Idaho*” (due out in January 2012).

Following a motion by Speaker Denney and a second by Representative Moyle, the Legislative Council voted to adjourn at approximately 3:20 p.m.