

**LEGISLATIVE COUNCIL
Capitol Building
Senate Majority Caucus Room
Boise, Idaho
November 9, 2012**

MINUTES

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

Also in attendance were Representative Sue Chew; Mary Sue Jones, Jennifer Novak and Diane Kelly, Senate staff; and Bonnie Alexander, Sue Frieders and Terri Franks-Smith, House staff. Staff in attendance from the Legislative Services Office were Jeff Youtz and Terri Kondeff, Administration; Mike Nugent, Katharine Gerrity, Eric Milstead and Brooke Murdoch, Research and Legislation; Glenn Harris, Information Technology; April Renfro, Shelley Sheridan, Andrew Campbell, Angela Martin and Kirsten Pruett, Audit; Cathy Holland-Smith, Margaret Major, Ray Houston, Richard Burns, Paul Headlee, Keith Bybee, Robyn Lockett, Matt Ellsworth and Jared Tatro, Budget & Policy Analysis. Also present were Rakesh Mohan, Office of Performance Evaluations; Brian Kane, State Attorney General's Office; Matt Freeman, State Board of Education; Ross Borden, City of Boise; Peter Morrill and Jeff Tucker, Idaho Public Television; Betsy Russell, Spokesman Review; Adam Cotterell, Boise State Public Radio; and Lincoln Smyser, Connolly and Smyser, Chartered.

The minutes from the June 8, 2012 Legislative Council meeting were approved on a unanimous voice vote. The motion was made by Senator Hammond and seconded by Representative Rusche.

Legislative Services Office Director's Report

Mr. Jeff Youtz, Director of the Legislative Services Office, introduced staff who have joined the agency since the previous meeting. Joining the Audit division are Shelley Sheridan, Andrew Campbell, Angela Martin and Kirsten Pruett-- Kirsten filling a restored position. Budget & Policy welcomed Jared Tatro who joined the division in July, also the result of a restored position. Director Youtz commented that the mix of new and experienced staff is important as we move forward. Speaker Denney welcomed the new staff and thanked them for joining the organization.

Director Youtz presented the Fiscal Year 2013 Strategic Plan. He reported that ours is one of the first legislatures to develop a strategic plan. The plan before the Council includes only minor changes to the previous plan; mostly date adjustments on the calendar with one area of note being Administrative Rules, which will now have a target date completion of February 28 rather than January 31 - a more realistic target. A motion to accept the Strategic Plan was approved on a voice vote, the motion made by Representative Collins and seconded by Representative Pence. Mr. Youtz then presented the LSO Budget Request. The office is requesting no new positions or line items; only a maintenance budget. The budget request is austere in light of the restored positions, travel and salary equity which was appropriated last legislative session, for which LSO is very appreciative.

A question was addressed to Director Youtz by Representative Rusche about the possibility of adding the analysis of fiscal notes as a staff function. Director Youtz responded that LSO currently has no designated staff to analyze all fiscal notes, and that expansion of responsibilities is not included in the budget request. Representative Rusche commented to the Council that challenges before the Legislature in the form of huge financial issues in the areas of healthcare, education and tax policy, would seem to require the ability to look closely at the fiscal impact of this legislation, in addition to the policy debate. Director Youtz agreed that the lack of resources to look at fiscal notes is troubling, and that currently it is the germane committees' responsibility to review fiscal notes and SOPs, which are drafted by the bill's sponsor. Pro Tem Hill stated that he has seen instances where other part-time legislatures utilize contract staff during session from accounting and/or law firms for certain functions, and asked Director Youtz if we have ever considered that option for fiscal notes. Director Youtz replied that we have not seriously considered that option, but would look at contract staff options for consideration to address fiscal notes.

Further discussion about the proposed budget included confirmation that JFAC certainly has the authority to alter the budget request being presented here, as it also has final say over all state budget requests.

Representative Rusche moved to approve the budget with an additional \$50,000 for contract fiscal note help, seconded by Representative Pence. Senator Davis inquired about the mechanics of this request including where the funding would come from, the decision process for using those funds, and questioned the dollar figure attached to the motion. Representative Rusche stated it was an arbitrary figure, emphasizing that this has been a repeated request from his caucus and that without a placeholder, another year might go by without addressing the issue.

Senator Bair made a substitute motion to accept the budget presented, but to ask LSO to investigate some options and costs to use outside contract support for fiscal note analysis, and to report back to the Legislative Council. The motion was seconded by Representative

Collins. The Pro Tem voiced his support for the substitute motion, and would like to see a study of various plans. The Pro Tem commended Representative Rusche for bringing the issue to the Council's attention, and Representative Rusche stated he was pleased to see some action taken in this regard. The substitute motion passed on a voice vote.

Interim Committee and Task Force Reports

Mike Nugent, Manager of the Research and Legislation division, and several of his staff provided status reports on interim committee activity.

The Idaho Council on Indian Affairs addressed law enforcement, a tribute to the late jazz singer Mildred Bailey of the Coeur d'Alene tribe, invasive Quagga Mussels management, and the practice of busing some students out of state.

The Wind Energy Task Force addressed a moratorium on wind energy. The Department of Fish and Game reported on wind energy impacts to wildlife; the taskforce expects to hear from the Office of Species Conservation at a later date. Bonneville Power and Idaho Power reported strains on their systems related to the amount of reserve created, while the city of Idaho Falls reported that it is considering investment in a wind energy project. Some homeowners, along with Representative Simpson, spoke in opposition of wind energy initiatives.

The Energy, Environment and Technology Task Force addressed a broad agenda, including the Invasive Species Act, the Bear Lake Watch Group and the Department of Environmental Quality (DEQ) sewage systems regulations, potential natural gas price increases, and the future of geothermal energy in Idaho.

The Natural Resources Interim Committee activity was presented by Katharine Gerrity. The committee discussed water recharge, wastewater discharge, and primacy issues. Idaho is one of only a few states without primacy and Ms. Gerrity briefed the Council on what would be entailed to introduce primacy practices. The DEQ would have some discretion in permitting and also the ability to work with individuals in compliance, without the involvement of the Environmental Protection Agency (EPA), but fees would be required. The EPA would still have authority to intervene in cases of non-compliance. Representative Rusche asked if the task force provided a recommendation, and Ms. Gerrity reported that the task force has issued no recommendation to-date.

The Health Care Task Force update was presented by Matt Ellsworth from Budget & Policy Analysis. Issues before this task force included, and will continue to include, the Managed Care House Bill 260 implications; statutory history, the vaccination program, CHIP program, Catastrophic Health Care (CAT) Fund, mental health boards and the high risk re-insurance

pool. The Affordable Care Act has taken up the majority of the attention of the task force; specifically, state authority and Health Exchange options.

Eric Milstead reported on the Right-of-Way Task Force, which was formed to clarify issues regarding House Bill 628. Issues involve easements, rights-of-way and the impacts to property holders. The Association of Counties, utility companies, water associations, members of the public, advocates and attorneys have weighed in on the discussion. The Co-chairs of this task force asked the stakeholders to work together to resolve issues. Senator Bair added that key stakeholders are in the process of trying to work out a compromise before next session.

Brooke Murdoch reported on the findings of the Citizens' Committee on Legislative Compensation, addressing the two percent salary increase recommended by the committee, and the issues relative to compensation to legislators who keep a second residence. Ms. Murdoch reported that a legislator must maintain a primary residence outside of Ada County, with a secondary residence in Ada County during session, in order to receive compensation.

Election Update, and Upcoming Orientation Program and Organizational Session

Speaker Denney opened by observing that the Organizational Session will be a real challenge due to the high turnover in the Legislature. Director Youtz provided a table for the Council outlining the changes in House and Senate membership, and stated that the turnover is a record, with 44 of 105 seats in both chambers changing. Mr. Youtz then gave an overview of the two and a half day orientation program agenda. A significant change is the new emphasis on Ethics Training which the Speaker and Pro Tem both have supported. Peggy Kerns, the Director of Ethics in Government for NCSL, will provide an ethics presentation for the new legislators in addition to the traditional overview of Idaho-specific laws and regulations on conflict of interest, public trust and campaign finance.

Education Reform Failed Propositions 1, 2, and 3

Eric Milstead presented an overview of the status and implications of failed education reform propositions 1, 2, and 3. Paul Headlee and Brian Kane were also available to answer questions.

Mr. Milstead reported that the election resulted in a series of mid-term amendments, and as a result, legislative action may be needed. As of today, Students Come First (SCF) is still in effect, until the Board of Canvassers certifies the vote on November 21, 2012. Upon certification, the Governor is expected to issue a proclamation, requiring those sections of code to be replaced by previously existing code (the 2005-2011 code will be reinstated to

become governing statute). Mr. Milstead reviewed details of the code affected by the changes.

Senator Bock asked if the contract for laptops was now void and Mr. Milstead confirmed that the contract is no longer in effect. Senator LeFavour asked if, given the reduction in funding for teacher salaries, classroom supplies and more, there would now be a restoration of those funds. Mr. Milstead replied that staff were in the process of compiling a list of issues and that those items may be on the list. The objective is to determine how to best get through the school year, and bring issues to the Legislature to address during session. He noted that the statutory scheme has changed on the existing appropriation bill that is in effect-- the Legislature may choose to modify that bill.

After several questions about the logistical problems associated with the repeals, Mr. Brian Kane of the Attorney General's Office advised that it would be beneficial to the Council to take a step back and look at the whole landscape. Although the reform laws have been repealed, which essentially resets the educational statutes to 2010, the Legislature has tools to modify, reconcile or clarify; the existing appropriation is law, but the Legislature can identify and clarify all of these issues including spending. Mr. Kane further reported that the Attorney General's Office is working with the Department of Education to clarify issues surrounding the impacts of the repeals. Paul Headlee of LSO spoke to the Public School appropriation and indicated that the current appropriation is sufficient to address restoration of code without requiring a supplemental appropriation. Restoration of the old laws may, in fact, create an excess of funds, but all information needed to evaluate that scenario was not yet available. The necessary data from the districts was in the process of being downloaded, and it could be a few months before that funding picture can be quantified. Other Public School excess funds, barring no action, will flow into the reconciliation fund at year-end. Mr. Headlee was not sure if Superintendent Luna intends to submit a revised budget.

Senator Davis noted that there were several questions from the minority concerning Pay For Performance and wondered if it was their desire to take away the PFP funding. Minority members voiced "no", in unison, and Senator Davis then asked if the intention was quick statutory ratification in session. Representative Rusche confirmed that was in fact, his intent: to do what must be done to get the money into the hands of those who earned it. Speaker Denney stated that this discussion is the start of that process. Senator Bock commented that without suggesting we take away the compensation, we now know the intent of the voters. Representative Eskridge reminded the body that we have tools to address all of these issues, with the exception of the current PFP payment, and suggested that all other issues were out of order for this body, and will be addressed in session.

The Council recessed at 9:45 a.m., reconvening at 10:10 a.m., at which time they took up the Legislative Calendar.

2013 Legislative Session Plan

Director Youtz, along with the Speaker and Pro Tem, reviewed the calendar for the upcoming session. Target dates were established for Rules Review, Personal Bill deadlines, transmittal dates and for the Joint Finance Appropriations Committee budget hearings and appropriations process. Session will convene January 7, 2013. Director Youtz highlighted the key change to the early part of the Legislative Session, which is a half-day session for all legislators on Ethics. This plenary session for all legislators is an historic first, and the result of support from majority and minority leadership to raise the importance of ethics training and awareness for the Idaho Legislature as an institution. A national trainer provided by CSG-West will start the program, followed by presentations on conflict of interest, campaign finance and other specific topics.

Technology Update

Glenn Harris, Manager of the Information Technology division, provided a report on the outcomes of the Ad Hoc Technology Committee. Enhanced Outlook email capability will allow us to add outside agencies to our address groups and Mr. Harris asked Council members to provide feedback to him regarding which agencies they would like to have included. Representative Rusche suggested we include the entire state directory and Mr. Harris said he would look into that possibility.

The Ad Hoc Committee reviewed cloud storage online information management and identified requirements to include a system that can be synchronized to automatically accept password updates, and that was also a highly secure system. Other topics reviewed included evaluating share capability between devices, and enhanced real-time notification. Most state legislatures are using multiple interfaces like Twitter and Facebook and are linked in without comment capability, only broadcast capability. Real-time enhancements introduced include committee 'agenda posted' messages, and also 'bill up for debate' messages for both chambers.

The committee took a simple approach to laptop replacement, choosing the same device for everyone. Based on survey results, most wanted a Windows laptop, and a lighter-weight machine with at least a 13 -inch screen. Selected was the Hewlett Packard EliteBook Folio 9470. It is a thin, lightweight ultrabook with a 14 -inch screen, weighing less than four pounds, and the contract came in under budget. The bid process resulted in the consideration of twelve machines, of which, six demo models were chosen to evaluate. The selected HP model has multiple ports, uses our existing power supports, has an easily replaceable battery and comes with a three-year warranty.

The IT budget request of \$160,000 includes \$100,000 in maintenance items, and also replacement of some committee secretary computers out of the LSO IT base budget. It includes cloud storage and also the purchase of additional desktop monitors for a few legislators who requested larger screens. For mobile streaming of "Legislature Live!", the contract was renegotiated to accommodate increased activity. The committee did not approve i-Pad devices or new display screens for the House, and did not approve the purchase of Office 2010 software (most agencies are using Office 2010). They did not approve new cases, as the current cases from 2000 are still in relatively good condition. Some lighter- weight sleeves were approved.

Cloud storage will be available to legislators and will be secure, using "Box.com". Members will not be required to use it, but it will be there if so desired, to access folders from a variety of devices. IT will establish shared folders for committees, caucuses, etc. Files can be set up to restrict editing: a 'view only' access. Also new is the introduction of real-time phone voting, a result of enhancements to the web browser. Legislators will be able to vote by phone and see the voting board without any delay. Members must still be in their chamber seat to vote. QR codes on posted paper agendas can be scanned using a Smart Phone to access links to agenda details such as the complete text of a bill. A new Help Desk application for Smart Phones will allow the IT staff mobile access to incoming requests and also allow legislators to interact with it from any location. This application allows IT staff to be more efficient; receiving requests dynamically from their phones, versus having to physically return to their offices to retrieve requests.

Office of Performance Evaluation: Speaker Denney invited Rakesh Mohan to update the Council on current OPE projects and on the business of the Joint Legislative Oversight Committee (JLOC). The first project Mr. Mohan presented was a teacher retention and recruitment effort. The evaluation includes data from the Department of Education, and survey results from school principals, district superintendents and teachers. Also surveyed were various state and private higher education institutions for their perspectives on barriers and requirements. Mr. Mohan hopes to issue the findings report on the second day of session. Mr. Mohan outlined another large project addressing employee compensation, requested by members of the Joint Finance Appropriations Committee (JFAC). Of the 17,000 surveys sent, about 11,000 responded. The survey also included agency heads and the Division of Human Resources, but excluded elected officials and certain higher education staff; that report also to be released during session. Contract management is another evaluation project underway. Mr. Mohan stated that some big contracts do not follow best practices. Likewise, a report on this issue will be forthcoming during the first week of session. A report on tax practices will be released the second week of session.

Speaker Denney asked who determines appointments to JLOC, and if this Council was part of that process. Mr. Mohan stated the committee consists of the two JFAC Co-chairs or their designees; the Majority in the Senate appoints a Majority member, the Minority selects a minority member, and the same process occurs in the House. The Council appoints the JLOC Co-chairs. To the question of alternating the co-chairs, the Pro Tem commented that it seemed like a good idea. Mr. Mohan stated that it is a decision for Council. The Pro Tem asked if the committee could function without the direction of the Council, and

Speaker Denney clarified that only the appointment of the co-chairs is directed by the Council.

Capitol Mall Parking

Director Jeff Youtz updated the Legislative Council on the plans for a new parking garage. House Concurrent Resolution (HCR) 47 authorized a new parking structure to address critical parking shortages. Construction will commence in the spring of 2013, to be completed in the summer of 2014. The preliminary plan is a five level, 600 space structure on the existing surface lot behind the J.R. Williams Building. Contract negotiations with Andersen Construction are still pending.

Ross Borden, representing the City of Boise, provided information regarding parking meters in the area around the Capitol Mall. He has had conversations with Representative Palmer, and the City of Boise will try to help make parking around the Capitol Mall less daunting for out-of-town visitors. While they are unable to do away with meters completely, the city has decided to extend the maximum meter time from the current two hour limit to three hours.

Legislative Audit Division

April Renfro, Manager of the Audit division, provided an update on her division's projects and initiatives in progress. She reviewed and explained the Comprehensive Annual Financial Report (CAFR) and Single Audit report. She also discussed ways in which her division can be more proactive with germane committees, JFAC and JLOC. Ms. Renfro stated that she would like to hold agencies more accountable for resolving findings, and she hopes to address outstanding findings. She introduced a new initiative in development: information sheets that will be short summaries of findings, corrective actions and any outstanding status. The information will be posted on the legislative website. Ms. Renfro distributed an example of a recent audit already posted to the website. Representative Rusche presented a concern, in which he cited as an example HB 260; where as a result of changes made, the state ended up in court, lost the case, and also ended up paying legal fees. Ms. Renfro explained that financial audits look backwards, so examining risks for an agency going forward are not often covered, although they work closely with the Budget & Policy staff and OPE in some cases to clarify corrective steps going forward.

The Pro Tem inquired whether our Audit division conducts the Legislative Branch audit and if so, how the division ensures objectivity. Ms. Renfro replied that an independent CPA firm conducts the LSO audit, as well as the audit for the State Controller. Mr. Youtz commented that staff spend a great deal of time, money and effort preparing for the legislative audit. He would like the Legislative Council to consider a two-year audit cycle instead of annually. It would require a minor change in the statute. Representative Rusche expressed concern that some spending within the legislative branch is not very transparent, and Council should consider the consequences of the perception of less transparency. The Pro Tem stated that

he was very comfortable with an every two-year audit and if any questions or concerns arise, they will implement an audit ahead of that schedule.

Senator Hammond made a motion to direct Mr. Youtz to take whatever action needed for the audit to occur every two years; the motion was seconded by Representative Collins. The Pro Tem emphasized that this change would still mean an audit of each year of expenditures, but that the report would be developed every other year. Representative Rusche acknowledged the burden on staff for these annual audits, but will vote against the motion based on minority party concerns. Speaker Denney stated that all action is open to the public and the Pro Tem added that there has been no intention to leave the minority party out. The Pro Tem went on to say that he was more than happy to provide any information requested by the minority party. Representative Eskridge inquired if there have been any major findings in the audit history identifying issues that would support not moving to a two-year audit. Director Youtz responded that there has been only one finding, years ago, when carryover spending authority was available but not used, a very minor issue. The expenditures of the House and Senate are very simple, most of which involve paychecks and travel costs. Speaker Denney noted that there was a motion on the table to provide direction to Mr. Youtz. The motion passed on a voice vote, with Representative Rusche objecting. The meeting then recessed for lunch at 11:30 a.m. and reconvened at 1:00 p.m.

FY 2013 and FY 2014 State Budget

Cathy Holland-Smith, Division Manager for Budget & Policy Analysis, presented a General Fund update with a caveat: the numbers are in flux given the mid-term amendments affecting the public schools budget, a significant revision in the Medicaid budget and the potential impending fiscal cliff; so it is likely these numbers could change significantly as the session gets underway. Ms. Holland-Smith acknowledged the hard work of her staff.

Ms. Holland-Smith stated that her division does not employ an economist to model forecasts; rather, our practice is to track revenues. She stated that the revenue numbers to date are close to the Division of Financial Management (DFM) forecast, and she feels that it is a good forecast. She does not expect the forecast to look much different going into session. We should have a balanced budget for this current fiscal year, even after accounting for supplemental requests for fire suppression, Medicaid and corrections issues. There are a number of challenges in developing the Medicaid forecast and it may take a few more months to gain a stronger sense of those numbers. Supplemental requests are actually down from previous years and Ms. Holland-Smith credits JFAC for being able to address long-standing, unmet funding issues. An almost \$10 million request from the Idaho Department of Correction (IDOC) can be attributed to significant growth following the opening of a large substance abuse facility. IDOC staffing changes may be contributing

to forecasting uncertainty and Ms. Holland-Smith believes that their request may be overstated.

Ms. Holland-Smith then spoke to the FY 2014 budget. Using a hypothetical four percent revenue growth, it is anticipated that the basic funding level to keep current programs going can be maintained, although all budget requests cannot be covered, which is the norm. This FY 2014 budget represents a long pattern of austerity. Ms. Holland-Smith recommended that the Legislature may want to leave enough money left on the table to add to the Stabilization Fund the following year. Some Public School line items requested were intended to restore cuts made previously. With the repeal of PFP, those line items will need to be reconsidered. Higher Education has a high funding request, at \$41 million. Health and Human Services shows a request for \$19 million (Medicaid Readiness) to accommodate the new federal laws.

Ms. Holland-Smith also reported on the State Reserve Funds from FY 2012 through FY 2013. By this time next year, barring no changes, the fund will contain \$49.7 million. Currently the Public Education Stabilization Fund (PESF) totals \$48.9 million. If all goes well, the fund should total \$ 98.6 million at the end of the year. This is not a lot of money comparatively speaking (to other states).

Questions about sequestration led to an explanation of the fiscal cliff. The U.S. Congress has until December 2012 to change this law or the changes will go into effect on January 2, 2013. If the plan goes forward, federal agencies will experience significant cuts, but also, moneys that flow from the federal government to the states will also be reduced. The greatest risk is what sequestration may do to the markets and our economy, and in spite of the budget just presented and discussed, there remain many unknowns at this time. Senator Davis remarked that Congressman Mike Simpson believes it is very unlikely we will see anything happen in the upcoming session; that the new Congress will push the cliff down the road. He conjectured that he is not sure how one writes a budget under these conditions unless one takes a very pessimistic approach. Ms. Holland-Smith stated that, if Congress goes forward, there will be 11% in federal cuts- a significant impact. She further stated that, even with an austere approach, we will not know precisely what impacts we will incur, and any fallout may have to be handled in special session. Speaker Denney asked what our total federal exposure is and Ms. Holland-Smith will get that information to the Council. Representative Rusche reflected that this scenario appears to be the mirror image of the federal stimulus package scenario from a few years ago.

Idaho Public Television (IPTV)

Director Youtz introduced two IPTV initiatives. The first involved a request to modify the original Memorandum of Understanding (MOU). Currently when there is a request for a

copy of a recorded action, the requestor fills out a printed permission slip that LSO passes on to IPTV, who then burns a compact disc of the requested action. The process is time consuming and costly. Mr. Youtz in concert with IPTV, would like Council approval to place files on the web, allowing the public to directly access a permission button and download files. IPTV would then remove the files after a set period of time. Council members were asked to review a provided redlined copy of the MOU to see the original language and proposed changes. Mr. Youtz acknowledged a history of reluctance to archive, since digital materials can be altered and used out of context, and could rise to some level of relevance to challenge content of the Journal, the official record. Under the proposed change, in order to download a file a requestor would have to agree to the terms and conditions online before being able to access and/or download a given on-line file. Representative Rusche agreed with the idea of a provision button, but expressed concerns regarding losing control of that file. Mr. Youtz said it is essentially the same practice that is in place now, only we would replace the actual disc and hard copy permission form with an on-line process.

Representative Rusche commented that even with a record of agreement, there is no way to stop editing. Director Youtz said this was correct, but that even now any live-stream broadcast can be home recorded and altered, and that requiring permission is more of a policy statement. Representative Rusche wondered if there had been any thought to keeping a master copy, a secure archive. Mr. Youtz replied that we currently do keep a CD copy of all requested material, so that we do have that secure original. Senator Davis expressed concern that if we make this part of the official record, the Senate could no longer suspend on full reading of the bills, greatly extending the length of session. He expressed further concern that as a permanent record, it could potentially be subpoenaed. Director Youtz noted once again, that the current policy is already a 'terms and conditions' policy, but on paper, not electronic, and inquired if the Senator felt this was also problematic. Senator Davis responded that he was never a fan of the existing practice, but feels the proposed changes increase the risk. He stated that he knows of no violations, but does not want to see expansion of this practice. Mr. Youtz clarified again that the proposal is not seeking to change the status quo; that they would still not archive indefinitely, but would simply place files on the web for the same two-week time frame now in place for CD's, and then delete them.

Director Youtz then posed the larger question: should we archive? Discussion ensued regarding the difference between legislative record and *intent*. Senator Davis reported increasing cases in the Supreme Court citing "intent" and he is concerned we could be giving fodder to litigation. Representative Rusche illustrated the current scenario in which someone at home can stream it, gavel to gavel, and asked why that is not also a problem. Senator Davis stated that Representative Rusche's point is not lost, he is just trying to manage risk and Idaho does not have a good definition of what constitutes legislative intent. Senator Bock agreed that it is a question of degree and of controlling the risk. The

Pro Tem noted that there is always risk of being misrepresented, stating that there is the court of law and the court of public opinion. Senator Bair commented that we have open media and anyone can choose to defame anybody, and that through solid archiving we could actually protect ourselves. Senator Hammond added that an historian in the future may want to watch the action of the legislative proceedings, and that we may well be sorry that we do not maintain a master archive.

Speaker Denney stated that there was no motion on the table. Hearing no further motions or direction, Director Youtz volunteered that, given no interest in making a change, we would continue to make CD copies and not change our MOU. Senator Davis directed a request to the Speaker and Pro Tem, to task a small group to look at the question of the right way to codify and adopt standard language to define legislative intent. He reported that it has not been looked at in 100 years and suggested we involve some outside opinion so that we do not make decisions in a vacuum. Representative Rusche reiterated that because of any layman's ability to alter digital records, without protection, we are at risk. The Pro Tem suggested that perhaps NCSL (National Conference of State Legislatures) could provide advisement on how other states manage this issue. Speaker Denney recapped, stating there are two issues: one is using the archive as legislative intent, or allowing it to be used, and that video may be out of context; the other issue being material misused for campaign purposes. A motion was made by Speaker Denney, and seconded by Senator Bock, to have the Speaker and Pro Tem start a work group to benchmark other state practices. Mr. Youtz stated that he would work with the Speaker and Pro Tem to make this happen, preparing a white paper to present to the Council. He will make changes to the first page of the MOU to get us through the next session. Representative Rusche made a motion, and Senator Bock seconded, to work on this initial phase to correct language. The motion passed on a voice vote.

Mr. Youtz then updated the Council on the Virtual Tour project, a joint venture between LSO, IPTV, and the Idaho Education Network, funded by the Idaho Commission for Libraries. It would be a video tour of the Capitol, part 'canned', with the option of an interactive component between a given legislator and classroom in that legislator's district. The project allows much greater access to the Capitol Tour program, for school children and other individuals who do not have the opportunity to physically visit the Capitol. Legislator involvement is optional.

The agenda completed, the Council entertained closing comments. Representative Rusche had a follow-up question regarding IPTV, wondering if they currently stream all committee action, and Mr. Youtz replied that virtually all committee hearings are streamed, but technically the decision to stream a particular meeting is still the decision of the Chair, which was a decision of the Legislative Council when the capability to stream in the newly-restored Capitol became available.

Representative Rusche asserted that these are all public meetings, and therefore a decision to not stream the proceedings reduced public access. Mr. Youtz agreed, but indicated that all hearing rooms have ample public seating available and the public is invited and welcomed to attend, but streaming is still a discretionary call of the Chair.

The Pro Tem thanked the Council and participants and especially acknowledged those for whom this is their last official meeting: Senators Hammond, Malepaei and LeFavour, and Representative Killen.

Speaker Denney invited a motion to adjourn, brought by Representative Rusche and seconded by Senator Bair. Hearing no objection, the Council adjourned at 2:51 p.m.