

MINUTES
Approved by the Council
Legislative Council
Tuesday, May 19, 2015
9:00 A.M.
WW 17
Boise, Idaho

Legislative Council members in attendance were Co-chair, Speaker Scott Bedke, Co-chair, Pro Tem Brent Hill; Senators Bart Davis, Steve Bair, Clifford Bayer, Michelle Stennett, Cherie Buckner-Webb and Grant Burgoyne; and Representatives Mike Moyle, Gary Collins, Jason Monks, John Rusche, Phylis King and Paulette Jordan.

Also in attendance were: Mary Sue Jones and Jennifer Novak, Senate staff; MaryLou Molitor, Assistant to the Speaker; Rakesh Mohan, Office of Performance Evaluations; Jennifer Pike and Keith Reynolds, Department of Administration; Betsy Russell, The Spokesman-Review; John Foster, Kestrel West; Jeremy Chou, Givens Pursley LLP; and Blake Youde, State Board of Education. Legislative Services Office staff in attendance included Director Eric Milstead, Cathy Holland-Smith, April Renfro, Paul Headlee, Keith Bybee and Charmi Arregui.

The meeting was called to order at 9:00 a.m. by Chairman Bedke.

2015 Interim Committee Appointments

Broadband Access Study Committee (new) HCR 26 (2015)

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| Sen. Dean Mortimer, Co-chair | Rep. Luke Malek, Co-chair |
| Sen. Dean Cameron | Rep. Lance Clow |
| Sen. Bart Davis | Rep. Rick Youngblood |
| Sen. Bob Nonini | Rep. Greg Chaney |
| Sen. Dan Schmidt | Rep. John Rusche |

Chairman Bedke pointed out that the Broadband Access Study Committee has two House members and three Senate members who are also on IPRAC (IEN Program Resource Advisory Council) as well as JFAC.

Senator Davis moved that the above Broadband Access Study Committee members be confirmed, seconded by Senator Buckner-Webb, and the motion passed unanimously by voice vote.

Representative Rusche asked if there was direction for this committee, other than the concurrent resolution, commenting that broadband could be a very broad category. Director Milstead read from HCR 26, pointing out that the charge was broadly stated and refers to best practices. He said the charge could be further defined by the co-chairs, but it was his understanding that the committee would delve into whether or not a statewide approach is best, in what manner, and whether local approaches might work. It was his understanding that it will be a broad look at what might work best for the state. Representative Rusche asked if the intent was more than the educational broadband capabilities and access for the state. Director Milstead said that the resolution states that the Legislature of the state of Idaho agrees with the need for consistent broadband services being available for use by school districts and state agencies.

Representative King asked about the procedure for adding ad hoc members to committees. Director Milstead said that within the text of the resolution, it states that non-legislative members of the committee may be appointed by the co-chairs of the committee. Representative King asked about other legislative members being added as ad hoc members of all interim committees. Chairman Bedke replied that usually those ad hoc appointments are requested by co-chairs and given consideration by the Pro Tem and the Speaker. He pointed out that meetings are public and an interested member could be granted ad hoc status, since their input is valued. Ad hoc members do not vote, but can participate.

Chairman Bedke said he would like to have clear recommendations by next year on whether broadband access would be statewide, district by district, or a blend, and what that looks like, what the state's responsibility is going to be, who pays, how this very important tool will be used to provide thorough, equal educational opportunities in all school districts, including rural schools.

Senator Stennett asked if people brought to the working group could be lay people that the co-chairs could choose to bring in; would there be criteria for expertise and if there was any defined definition of those people. Director Milstead said that was not specified in the text of the resolution. It did say that non-legislative members may be appointed by the co-chairs. Senator Stennett stated that those people could be very good facilitators to make sure that things are being done at the local level in school districts.

State Purchasing Laws (new) – HCR 23 (2015)

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| Sen. Fred Martin, Co-chair | Rep. Neil Anderson, Co-chair |
| Sen. Bart Davis | Rep. Maxine Bell |
| Sen. John Tippets | Rep. Brent Crane |
| Sen. Lori Den Hartog | Rep. John Vander Woude |
| Sen. Maryanne Jordan | Rep. Mark Nye |

Director Milstead read from HCR 23 that this committee will undertake and complete a study of the purchasing laws of the state of Idaho, including and not limited to the submission and acceptance of bids for goods and services including construction and to report and make recommendation for changes therein. This committee shall receive input, advice and assistance from interested and affected parties who are not members of the Legislature. Non-legislative members may be appointed by the co-chairs. The committee shall report its findings, recommendations and proposed legislation to the 2nd regular session of the 63rd Legislature.

Representative Rusche moved that the above State Purchasing Laws roster be approved, seconded by Representative King, and the motion passed unanimously by voice vote.

Urban Renewal (new) – HCR 17 (2015)

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| Sen. Dan Johnson, Co-chair | Rep. Rick Youngblood, Co-chair |
| Sen. Jeff Siddoway | Rep. Kathy Sims |
| Sen. Chuck Winder | Rep. Robert Anderst |
| Sen. Mary Souza | Rep. Lance Clow |
| Sen. Maryanne Jordan | Rep. Hy Kloc |

Director Milstead read from HCR 17 that this committee would study the statutes and laws regarding urban renewal agencies, revenue allocation areas and the economic development act contained in Chapters 20 and 29, Title 50, Idaho Code. The committee is charged to make recommendations for necessary changes to those and other related statutes and, if necessary, to the state constitution. This committee will receive input, advice and assistance from interested and affected parties who are not members of the Legislature. The co-chairs can appoint non-legislative members. The committee shall report its findings, recommendations and proposed legislation to the 2nd regular session of the 63rd Legislature.

Representative Collins moved that the above Urban Renewal roster be approved, seconded by Representative Rusche, and the motion passed unanimously by voice vote.

Criminal Justice Reinvestment Oversight Committee (continuing) S 1393 (Membership Defined by Statute, 2014)

Sen. Patti Anne Lodge, Co-chair

Rep. Rich Wills, Co-chair

Sen. Shawn Keough

Rep. James Holtzclaw

Sen. Jim Rice

Rep. Luke Malek

Sen. Dan Schmidt

Rep. John McCrostie

Sen. Cherie Buckner-Webb

Rep. Mark Nye

Representative Rusche interjected that Representative Paulette Jordan had expressed an interest in this committee. Representative Moyle asked Representative Rusche if it was his intention to ask one of the two Democratic members to come off, and Representative McCrostie was mentioned. Chairman Bedke said, if another member needs ad hoc status to be appointed to this committee, then that could work. Pro Tem Hill reiterated that one of the reasons for ad hoc status is that expenses generally are paid for that ad hoc member. Otherwise, an interested legislator would generally attend meetings at their own expense, unless approved by the Pro Tem or Speaker.

Senator Buckner-Webb moved that the above Criminal Justice Reinvestment Oversight Committee roster be approved, seconded by Senator Stennett; Chairman Bedke added that there may be additional ad hoc members, since interest had been expressed by other House members.

Senator Davis asked, in the event Representative McCrostie agrees to be replaced by Representative Jordan, did the motion include this replacement. Pro Tem Hill explained that the number of members on this particular committee is set by statute, which would make him more reluctant probably to add ad hoc members, since ad hoc members were not called for. It may be permissible to do so, but he wanted more research done on that before adding members. On other committees, if more members are interested, he said that is the prerogative of the Legislative Council.

Senator Buckner-Webb's motion passed unanimously by voice vote.

Natural Resources Interim Committee (continuing) HCR 31 (2013); HCR 8 (2015)

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| Sen. Steve Bair, Co-chair | Rep. Dell Raybould, Co-chair |
| Sen. Jeff Siddoway | Rep. Scott Bedke |
| Sen. Lee Heider | Rep. Mike Moyle |
| Sen. Dean Cameron | Rep. Marc Gibbs |
| Sen. Michelle Stennett | Rep. Donna Pence |
| Sen. Bert Brackett (Ad Hoc) | Rep. Ken Andrus (Ad Hoc) |
| Sen. Shawn Keough (Ad Hoc) | Rep. Paul Shepherd (Ad Hoc) |
| Sen. Jim Patrick (Ad Hoc) | |
| Sen. Roy Lacey (Ad Hoc) | |

Pro Tem Hill pointed out that on the Natural Resources Interim Committee, Senator Abby Lee's name as Ad Hoc had been removed, after discussing this with her.

Representative Rusche moved to approve the above roster, seconded by Senator Burgoyne.

Senator Davis called for a point of order and stated that he thought only members of committees were approved by Legislative Council and that ad hoc status was reserved for the Speaker and Pro Tem. Chairman Bedke affirmed that it was his opinion that approving ad hoc status was reserved for the Pro Tem and Speaker. When a member is officially appointed as an ad hoc member, travel expenses are compensated.

Representative Rusche's motion passed unanimously by voice vote.

Health Care Task Force (continuing) - (1999) I.C. 41-5502

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| Sen. Dean Cameron, Co-chair | Rep. Gary Collins, Co-chair |
| Sen. Steve Vick | Rep. Fred Wood |
| Sen. Marv Hagedorn | Rep. Lynn Luker |
| Sen. John Tippetts | Rep. Brandon Hixon |
| Sen. Lee Heider | Rep. Luke Malek |
| Sen. Steven Thayn | Rep. John Rusche |
| Sen. Dan Schmidt | Rep. Elaine Smith |

Representative Rusche said he thought that the statutory provision for the Health Care Task Force had to do with increasing costs of health insurance and establishing a reinsurance pool. With changes in the industry and in federal and state law, that charge is probably too limiting or incorrect at this time, but health care is probably 20% of GDP (gross domestic product) and certainly warrants the ability for this task force to look at issues prior to a legislative session. Even though this task force has not had much activity, he did think that addressing health and health financing in this task force was important, focusing on what brings best value. He thought perhaps this task force could bring changes in the charge and direction.

Senator Bair said he thought that this task force needed to be reevaluated.

Chairman Bedke asked if the task force should take up in the interim a recommendation as to what this task force looks like going forward with regard to scope, or could that be better taken up in another venue. Representative King asked how the task force could be formally tasked with changing their mission and scope. Chairman Bedke said that two members on that task force were here on Legislative Council; he added that there was some reluctance to disband this task force since issues may come up that fit best into this task force, even though it was used for the high risk pool. It still might come in handy at times. He said there may be a need to refocus the vision.

Pro Tem Hill said the statute references a board, to be known as the Idaho Individual High Risk Reinsurance Board, and he asked if that was another board. If it is, he didn't think the Health Care Task Force was authorized by the particular statute he was looking at. Pro Tem Hill said the task force had been asked to not meet last year, unless an issue arose, and he suggested that this task force be approved with the same kind of instructions. However, he thought the statute needed to be examined during the interim to determine if this task force should be continued. If so, that should be done through a concurrent resolution next session, if the Legislative Council agrees.

Representative Moyle restated the Pro Tem's recommendation as he heard it, that the task force could meet if some issues arise, and that next session it will be decided whether this task force go forward through a resolution. Rep. King asked for clarification on who would get together, the task force or legislative council members. Representative Moyle said he assumed it would be the two co-chairs who would have that discussion, leaving the option that if something happened with the Supreme Court this summer, then the task force could meet, if necessary.

Representative Collins interjected that as far as the high risk pool board, the health care task force had oversight history over that board. He thought that if the Affordable Care Act continues as is, the Idaho Individual High Risk Reinsurance Pool (HRP) will be dissolved within a year or two. Issues could come up, and he said he thought there was benefit to reassess the goal of this task force.

Pro Tem Hill revised his recommendation to approve the task force and requested that, at the fall meeting of Legislative Council, there be a report from LSO and the co-chairs as far as the need and what statutory requirements are there, etc. If there is no statutory requirement, then the Legislature should go through the regular concurrent resolution process. Senator Davis said that Section 56-1054, Idaho Code, provides for the Health Quality Planning and does specifically reference the task force especially in 5(g) referred to as "The Legislative Health Care Task Force." He said he would support the Pro Tem's recommendation, especially about having a more robust statutory understanding in the fall.

Senator Davis made a motion consistent with the Pro Tem's recommendation, seconded by Representative Rusche. Chairman Bedke repeated that the motion, which was to approve the Health Care Task Force's roster and to have the co-chairs, in concert with the minority, develop a recommendation (perhaps by conference phone call, if there is no meeting) regarding the future of the task force. This could mean that the task force could be addressed in either statute or by concurrent resolution. The motion passed unanimously by voice vote.

Public Defense Reform Interim Committee (continuing) - HCR 40 (2014)

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| Sen. Todd Lakey, Co-chair | Rep. Christy Perry, Co-chair n |
| Sen. Curt McKenzie | Rep. Lynn Luker |
| Sen. Dean Mortimer | Rep. Janet Trujillo |
| Sen. Jim Guthrie | Rep. Pat McDonald |
| Sen. Cherie Buckner-Webb | Rep. John Gannon |

Representative Rusche moved to approve the above Public Defense Reform Interim Committee roster, seconded by Representative Collins, and the motion passed unanimously by voice vote.

Joint Legislative Oversight Committee (JLOC: 67-457)

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| Sen. Cliff Bayer, Co-chair | Rep. John Rusche, Co-chair |
| Sen. Steve Vick | Rep. Maxine Bell |
| Sen. Michelle Stennett | Rep. Gayle Batt |
| Sen. Cherie Buckner-Webb | Rep. Elaine Smith |

Senator Bair moved to approve the above JLOC roster, seconded by Senator Stennett, and the motion passed unanimously by voice vote.

Update on Statehouse ADA Compliance

Ms. Jan Frew, Division of Public Works, updated the council on statehouse ADA (Americans with Disabilities Act) Compliance. She stated that her division had been working for over a year with the Department of Justice regarding complaints received about ADA access to the Capitol, working to come to an agreement about corrective actions that will be undertaken. The following is a list of major items that will be included in the plan:

1. Provide access ramps at east and west first floor entries.
2. Remove and replace sections of existing sloped walks at lower Jefferson Street entries to correct cross-slope issues. Modify and extend handrails to meet ADA requirements.
3. In 4th floor Senate gallery remove section of VIP seating, including rear wall, to provide wheelchair spaces and companion seats.
4. In 4th floor House gallery remove section of north corridor wall and relocate monitors. Provide wheelchair spaces and companion seats.
5. Installation of compliant signs at entries to offices and meeting rooms accessible to the public. Signs will also be added to the exterior grounds to provide directions to accessible entries.
6. Installation of lever or pull hardware on public access doors (custom fabricated to mimic details of historic hardware).

Ms. Frew pointed out that 110 items have agreed to be completed, the first set of items by July 2015 and the last set to be completed by July 2017 at an estimated cost in excess of \$400,000.

Pro Tem Hill asked if ramps on the east and west entries would replace steps, and Ms. Frew replied that the steps will be replaced by ramps and will be under the portico, protected from snow or ice in winter.

Representative King asked about the two sets of heavy entrance doors on the east and west entries, and Ms. Frew assured her there will be automatic door openers.

Senator Davis asked why there could not be a design to also allow steps, in addition to the ramps, since these ramps could make it easier for some and more difficult for others. Ms. Frew explained that the architects and the Department of Justice thought a better solution was for ramps only.

Chairman Bedke asked why these ADA corrective actions were not considered in the Capitol renovation initially; were there oversights? Ms. Frew answered that it has come down to a matter of interpretation of what the ADA requires. The Division of Building Safety approved the initial plans to be compliant with building codes and to be compliant with ADA. However, issues have arisen due to the ADA not being a building code; it's a law that requires accessibility, so it's often not specific. A disabled person can file a complaint, and that is when the Department of Justice gets involved and investigates; their experts then interpret the ADA at their level. Because the Capitol Building was not being totally reconstructed, being a historic building, many exemptions were being utilized that were allowed for historic buildings, such as making the building entries accessible, but not at the same number as new construction. The Department of Justice's interpretation was that if \$120 million was being spent, whether on new construction or on revising existing structures, every part of the building should be accessible. The historic building exceptions should no longer apply, so that is the reason for these proposed modifications. A few concessions have been made and compromises have been agreed upon.

The entries providing access to the garden level need corrections for cross-slope issues and modifying handrails to meet ADA requirements. Senator Davis asked for clarification on the concrete issues. Ms. Frew explained that they thought slope requirements had been met, but the amount of slope being out of compliance is one-half percent. The cross-slope must be a maximum of 2% and it's about 2.5%. Senator Davis asked if this was due to settling or design and Ms. Frew said it was due to installation. The design showed 2%, so it was incorrectly installed. The time for requiring the contractor to fix this is long past. Senator Davis asked about the cost for this correction and Ms. Frew said the concrete and handrail correction would be about \$50,000.

Senator Burgoyne stated that since this was an installation defect, he asked if there been any discussion with the installer about their responsibility. Ms. Frew explained that McAlvain Construction was the contractor and there were issues about sidewalks around the site; several had to be redone, including those in question. Ms. Frew stated that because these sidewalks were accepted, she didn't think that, in good conscience, they could go back to request another re-do.

Chairman Bedke asked what led to the discovery that this one-half percent was an issue. He also asked if this was informational for the council; is any action required by the council, or has the Capitol Commission already signed off on this. Ms. Frew said that the Capitol Commission had already approved moving forward with these improvements, adding that there was no specific information as to what the complaint was, since that is confidential information. When a complaint is received, investigators then examine everything very closely

Representative King asked if there was any way to appeal this. Ms. Frew said that the other option would be going to court, so the Capitol Commission wisely agreed to work with the Department of Justice to agree on solutions.

Senator Buckner-Webb asked if McAlvain Construction might be one of the vendors considered to replace these sidewalks again. Ms. Frew replied that projects are going to be done in packages, and the work out front will be a \$50,000 package, adding that a current term contractor would probably do the sidewalks, rather than putting the project out for bid. Senator Buckner-Webb said she thought that perhaps McAlvain Construction might consider doing the sidewalks at a reduced price.

Senator Bayer asked if a different engineering approach had been discussed, rather than replacing the sidewalks, such as raising or leveling the concrete one-half percent. Ms. Frew said that the matter was complicated, involving a curb and railings, assuring the members that simpler, less expensive options were explored. Senator Stennett asked about sidewalk dimensions and Ms. Frew explained that the sidewalks ran from Jefferson Street to the garden level entries.

Ms. Frew continued her report on projects in the House and Senate 4th floor galleries to provide wheelchair spaces and companion seats, having previously brought these issues to the attention of Legislative Council. She said that a compromise was agreed upon, based upon structural issues in the galleries. Senator Stennett asked about the cost for the gallery component and the formula that is dictated by the ADA regarding the number and placement of ADA seating. Ms. Frew said there is a ratio used and that each wheelchair space must have a companion seat as well. Four wheelchair spaces are needed. Ms. Frew thought that the cost of this project in the House and Senate galleries was around \$150,000.

Ms. Frew discussed installation of compliant signs at entries accessible to the public, as well as to exterior grounds to provide directions. Signage was installed when the renovation was done, but has been found to be inadequate for ADA compliance, particularly the Braille signs.

Installation of levers or pull hardware on public access doors was the last item noted by Ms. Frew and she said that some previously installed were not ADA-compliant. Speaker Bedke asked if those historic door knobs would be available for the public to purchase under some bid. Ms. Frew explained that those would be retained for replacement stock when other historic hardware was replaced, as pieces wear out or break.

Ms. Frew summarized that out of 110 targeted projects, some fairly minor ones would be completed in July 2015, and that four sets of projects will be completed on four different dates, the last finished in July 2017.

Representative Monks inquired about the agreement with the Department of Justice (DOJ) and any guarantee that this will not have to be done again if another complaint is received. He noted that maintenance will always be required, but asked if changes made pursuant to the agreement with DOJ could be found insufficient in the future. Ms. Frew said that this is the reason discussions have been taking place for over a year, waiting for a settlement agreement to be signed, which would be final regarding the 110 issues identified. Once corrected, those issues could not be brought up again as non-compliant, as long as we do what we say we will do in the settlement. It would not prevent somebody from finding something that an expert did not discover, after looking at the building very comprehensively.

Senator Bair asked about elevator issues. Ms. Frew said that the rotunda elevators had been mentioned as being too small, being within inches of not meeting the current ADA measurements, but the elevators were proven to be usable by people with disabilities for many years. The elevator shafts cannot be enlarged, so the elevator issue was allowed to remain as is, due to the Capitol being a historic building.

Proposed Agenda Topics for Fall Meeting

Chairman Bedke invited the council members to review possible agenda items for the fall meeting, noting that between this meeting date and the fall meeting date, issues can be vetted with LSO guidance, to be scored and further addressed.

Chairman Bedke noted that many public information requests had been received this year; it was brought to his attention that other states handle such requests differently than Idaho. Director Milstead pointed out that Utah has public email folders for legislators on the Utah Legislature's website and it's voluntary; all or some emails received can be swept into a public folder, searchable by the public. He believes this might be one option. He handed out a page entitled *Western States Legislative Public Records Requests* which was compiled with the help of NCSL to show how ten states handle this issue. Chairman Bedke pointed out that with a public email folder, one issue for a constituent would be the assumption there would be some level of privacy when communicating with an elected official, even though communications become public documents.

Representative Rusche referred to medical confidentiality and being given permission to allow a communication to become public information, believing there might be a way around the privacy issue. Public records requests, he said, are covered by law.

Representative King asked for clarification; if she received 1000 emails on a topic, would those go into a searchable folder with her replies. Chairman Bedke explained that this could be a topic for exploration, and there are not answers at this point. Chairman Bedke reiterated that there had been increased interest in records requests, and the question is simply whether Idaho's process is efficient.

Senator Burgoyne said he had no problem with emails being public until a constituent writes an email that might be personal and who may not realize that this public record could generate a perhaps unwanted interest by another party. He expressed an interest to address this at some point in time. Chairman Bedke said he thought that issue warranted further research by LSO staff and stated this should be a fall agenda item, and there were no objections.

Chairman Bedke next addressed the topic of the Governor's veto power provided for in Section 10, Article IV, of the Constitution of the state of Idaho, and what constitutes the return of a vetoed bill, since this issue arose during the last regular session. Representative Rusche asked if this was not going to be defined by the court case, stating that any action by the council might be premature without having a clear definition of what the law is. Chairman Bedke said that the council could be equal and separate, even after that decision, and said that "we could have our own process as well." Senator Bair asked what court case was being referenced, and Chairman Bedke clarified by saying: "the threatened one." Senator Bair reiterated that a court case, at this date, had not yet been filed, and Chairman Bedke agreed. Senator Burgoyne said that, in addition to legal issues, there are internal, practical issues and discussions that took place within the Senate as to what constitutes return (of vetoed legislation) and how that return is documented in functional terms; he thought it might be useful to further define this process, in addition to statutory analysis.

Director Milstead said his suggested approach would be to review statute to come up with specifics, agreeing there may be other options as well. Senator Davis said he thought this was an important subject, but he added that it might be wise to keep this topic in the queue of things to consider and watch during the next few months to see if anything happens judicially. Senator Davis agreed that it must be decided about the correct public policy going forward; however, he didn't think the timing was right for the council to consider this topic on the fall agenda.

Chairman Bedke said that a facilities update, particularly regarding ADA compliance issues in the statehouse, should be on the fall agenda, and there was no objection.

The next item proposed for the fall agenda was administrative and committee staffing levels. This topic was proposed by Senator Burgoyne, who said he noticed the difference in staffing when he moved from the House to the Senate. He also noted that since Idaho has a part-time citizen legislature, the role of LSO staff in providing objective, professional research to support proposed legislation and fiscal notes is critically important, and said the adequacy of staffing levels could be a topic for ongoing discussion.

Representative Rusche said this had been a discussion for years, agreeing with Senator Burgoyne, especially for legislators who are not local and physically close to LSO staff. He noted that the fiscal analysis of legislation should be as close to reality as possible, while the statement of purpose is advertising. He thinks fiscal notes need to be reviewed other than by a lobbyist or DFM (Division of Financial Management); he said he would support a discussion of some professional staff to assist the Legislature in preparing and analyzing legislation. He expressed his appreciation for LSO, adding that getting budget staff to work on a bill not connected to an appropriation, the last month of session, was really difficult.

Senator Davis expressed his opinion that House and Senate staffing levels are determined by each respective body, and can fluctuate from year to year. He said he was interested in how other states address staffing and organization of their Legislative Services Offices with regard to in-house counsel and advice they give to legislators, how litigation is handled, and the standing of the legislature statutorily being involved in some legislation. Legislation is sometimes passed while legislators sit on the sidelines without having much of a litigation dog in the fight, when legislators understood the purpose as well or better than most. That is the part of staffing and organization that Senator Davis said he was personally interested in. He wanted to see what else Idaho could or should be doing.

Senator Stennett asked Senator Davis about impacts of passing legislation that then have a contrary impact that was not foreseen; was he talking about having an extra set of eyes so that legislation is more thoroughly vetted? Senator Davis replied that he did not know the answer to that, since he was not as familiar as some with regard to what other states do. He would like to hear other best practices in other states in this area. He commented that asking a bill drafter to write what is asked of them is one approach, another being that their litigation experience could become involved in the process. He said he would like more information to better understand available options.

Chairman Bedke referred back to Senator Burgoyne's suggested discussion on staffing levels for members; he affirmed that he often hears comments about lacking the staff desired for projects, and he agreed with Senator Davis that any changes would be up to the House and Senate. Best practices information from other states is valuable. Director Milstead said that there are models to be examined and information brought back, many including additional resources. He pointed out that Nevada's bill drafting system includes both an attorney and a researcher performing work on a single bill. Director Milstead pointed out that this bullet point item could require considerable preliminary investigation, so he thought it might be too soon to address on the fall agenda. He agreed to report back in the fall as to the progress on this topic.

Pro Tem Hill said he thought that items should enter a queue and then the council can decide the priority of the potential fall agenda items. The members on this council, he emphasized, had been elected to represent their peers, affirming that the agendas are up to the council members, wanting to get that message out that their input is sought and very important. He added that statutory responsibilities can also be discussed for a better understanding, which was the next item for consideration.

Representative Paulette Jordan explained that she was the freshman member of this council; she wondered if the council could also get an update on the CCA (Corrections Corporation of America) contract investigation for the fall agenda. Chairman Bedke and Director Milstead agreed that could be a fall agenda item, with the council's approval.

Representative King agreed that discussion on appropriate staffing levels was important, emphasizing fiscal notes, wanting to know more about what other states do.

Senator Davis asked what would be considered on the fall agenda with regard to appropriate staffing levels. Chairman Bedke asked if there was agreement by council members that the staffing level decisions, with regard to daily operations in the House and Senate, will be retained by the House and Senate individually. He said that Idaho analysts currently do not pass judgment on ideas brought forth by legislators. As far as what other states do, some analysts may try to channel a legislator during the process as to what is doable, adding that he believed that an analyst should always stay out of politics, but pointing out legal issues or pitfalls could be useful. In his experience, such issues usually are revealed during the committee process. Chairman Bedke thought it would be useful to have a report started, including how other states score fiscal notes, since concern has been expressed about fiscal notes. He thought that bookends had been identified, without giving Director Milstead clear direction. Senator Davis asked if Director Milstead's information could include different methods of scoring fiscal notes the way other states do, adding that it would be helpful if there is some method or resource available on scoring fiscal notes. Director Milstead asked for clarification, wondering if Senator Davis wanted to know how other states' central research staff prepares fiscal notes or how other states do it, regardless of whether centralized staff is involved. Senator Davis explained that he simply wanted information on a better process for fiscal notes. Chairman Bedke suggested that the fall agenda include an item focusing on fiscal notes and said information could be sought from other states similar to Idaho, for comparison purposes.

Representative King said she wanted to know if other states include cities and counties and how they could be affected with a piece of legislation, as well as the possible effect on state agencies.

Representative Rusche said he has wondered what other states do with regard to responsibilities and oversight and whether germane committees had the right assistance and staff to investigate and oversee what may be required of them statutorily. Should OPE (Office of Performance Evaluations) be doing a limited investigation and assessment process? He suggested putting this staffing issue on a future agenda.

Chairman Bedke summarized that LSO will come prepared in the fall to give the council a view of what is done in other states with regard to fiscal notes, how far they go, what levels of government they affect, how they are scored, etc.

Chairman Bedke said that the last suggested discussion item, overview of Legislative Council statutes and council responsibilities, could include a job description as to what is in code. He thought this could be useful, since council agendas are often reactive to issues from the previous session or that may occur in the upcoming session. Chairman Bedke invited members to contact Director Milstead about other suggested fall agenda items.

Update on Local Government Entity Registry

Ms. April Renfro, Division Manager, Legislative Audits, LSO, updated the council on the Local Government Entity Registry available on the LSO website which reflects the implementation of 2014 House Bill 560 which codified Section 67-450E, Idaho Code. This local government registry provides administrative and financial information and uploads budget and audit documents. The portal was

made available January 1, 2015 with registration required to be completed by March 1, 2015. Ms. Renfro reported that the 2014 *Special Districts Report* identified 1,556 known entities, including 165 charter schools and school districts that were exempted from this legislation, leaving 1,391 entities that should register. Currently, 957 entities have completed the entire process, and another 236 have completed at least the initial stage of registration, totaling 1,155. She said that of the entities that have completed some portion of the registration process, 7 new types of districts, including 31 entities, were identified and 23 additional entities within 3 known district types were identified. The next steps are analyzing data collected and working to improve the registration process and to notify counties and the Idaho State Tax Commission of entities that have not complied. Ms. Renfro pointed out that the registry portal and customer service aspect of creating a registry of this nature is a work in progress that has not been without problems. Entities without computer access can go to a city library in order to enter information online.

Chairman Bedke asked about the 236 entities that had not completed at least the initial stage of registration, asking what type of entities those were. Ms. Renfro said that about 73% of cemetery districts had registered, and the analysis has just begun about how many had completed registration. Some cities have not registered, but all counties have. She added that there were 158 fire districts identified; 146 have started the process and 124 completed registration, those 124 are included in the 957 completing the process. Counties often have contact information for entities so that LSO can contact those entities. Chairman Bedke asked what the provisions were in House Bill 560 in case next year at this time there were still 236 that had not completed the process.

Ms. Renfro replied that LSO would notify the Tax Commission and each county of non-compliant entities. The Tax Commission and county would then have the ability to contact those entities and encourage them to comply; otherwise, tax distributions and/or funds would be withheld. Ms. Renfro stated it was important to note that an entity is considered compliant with Section 67-450E, Idaho Code, just by contacting LSO and advising of their plan to comply. She noted one example of a fire district that did not have an audit done for fiscal year 2014 because it was not budgeted. That fire district is still compliant because they communicated to LSO that the expense would be budgeted for in the next fiscal year.

Representative King asked if the purpose of this registry was so that all these taxing entities are being audited, asking if this has greatly increased the LSO Audit Division's activities, or will it. Ms. Renfro said it was not intended for entities to be audited by LSO; it was intended to make sure entities were compliant with the code section already in existence which requires that if entities meet certain tiered thresholds, they are required to have an audit performed and submit that to LSO. The intent was that the 35% compliance rate with those audit requirements, with ones LSO knew should be having an audit, so the intent was to increase that percentage. She said that LSO hoped to complete a report after the September 1, 2015 deadline showing where entities are with regard to compliance on submitting those audits, hoping to improve compliance rates. Representative King asked if all audits would be public record. Ms. Renfro replied that all audits are public record and are scanned as they are received. She stated that one goal in redesigning the website, from Audit's perspective, is to make all information accessible to the public like many other states do. She added that a list of entities will be available on LSO's website by January 1, 2016 as required by statute.

General Fund Update

Ms. Cathy Holland-Smith, Division Manager, Budget & Policy, LSO, next gave the Council a General Fund update referring to the handout *General Fund Budget Monitor – April 2015*. Most of the changes and anticipated distributions from the General Fund, as compared to Sine Die, are directly related to H312a (the transportation funding bill). The General Fund surplus as of the end of April is \$91.8 million. Of that total, \$20 million was generated in December, and the Legislature was notified

of it on January 8th; \$44 million was generated in February, and the Legislature was notified on March 6th, at which time JFAC had already completed two weeks of its three-week cycle to set budgets. JFAC was cautioned by DFM that there had been a slowdown in the tax refund process that was contributing to the surplus, but to what extent was unknown. On April 7th, the Legislature was notified that there was an additional \$23.3 million surplus in March, all of which added up to \$91.8 million. Ms. Holland-Smith said this means there is an additional \$240.9 million of new money for FY 2015, instead of the forecasted \$149.1 million, or 38% more than forecast.

The DFM forecast was for a 5.3% increase for FY 2015, and once legislation was passed during the session that impacted revenue, the forecast went down to 4.9%. Each month DFM measures the surplus against that original forecast number of 5.3%, not the revised growth of 4.9%. So far, year-to-date, there is a 7.8% increase in collections that is likely to increase to 8.5%, if expected growth continues in May and June in accordance with the forecast. The \$91.8 million surplus will impact distributions from the General Fund at fiscal year-end – \$28.2 million will be distributed to the Budget Stabilization Fund (BSF), or \$2.7 million more than expected at Sine Die. H312a ensures that the target of \$44.9 million for the ending General Fund cash balance for FY 2015 is maintained, with the \$89.1 million remainder being distributed equally to both the BSF and the Strategic Initiatives Fund for transportation. This results in \$44.5 million being deposited into each fund. Ms. Holland-Smith said that the General Fund is not likely to lose revenue in May and June. The Strategic Initiatives Fund had not received an appropriation yet, so the Legislature will be considering a supplemental request from the Idaho Transportation Department (ITD) early in the 2016 session. She pointed out that it is unknown whether the Legislature will be looking at appropriating other new revenue raised in H312a because, at the time that ITD's appropriation was set for 2016, the department's appropriation was already more than available revenue. Other than changes in the surplus, the only other thing that may change the distribution is if agencies don't spend all of their General Fund appropriations, resulting in reversions to the General Fund, making that money available to be distributed to both the BSF and the Strategic Initiatives Fund. Her handout, the *General Fund Budget Monitor*, is put out monthly by LSO budget staff and shows how changes in revenues impact the budget. The *General Fund Revenue Report* is prepared by DFM and tracks revenue collections compared to the forecast each month. Based upon the timing and when the Legislature became aware of the surplus, Ms. Holland-Smith emphasized that it was not in the best position to react quickly and change budgets for agencies that had already been set.

Approval of Minutes

Chairman Bedke said he'd been reminded about the minutes from the previous council meeting and Senator Buckner-Webb moved to approve the November 7, 2014 minutes, seconded by Senator Bair, and the motion passed unanimously by voice vote.

Chairman Bedke adjourned the meeting at 11:07 a.m.