

MINUTES
Approved by the Council
Legislative Council
Friday, November 06, 2015
8:15 A.M.
WW 17 (Senate Flex)
Boise, Idaho

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

Also in attendance were: Mary Sue Jones, Jennifer Novak, and Diane Kelly, Senate staff; MaryLou Molitor, Assistant to the Speaker; Rakesh Mohan, Office of Performance Evaluations; Betsy Russell, The Spokesman-Review; Ellie Brown, Veritas Advisors; John Foster, Kestrel West; Carlie Foster and Jason Kreizenbeck, Lobby Idaho; Keith Reynolds, Department of Administration; Emily Patchin and Tyler Mallard, Risch Pisca, PLLC; Seth Ogilvie and Melissa Davlin, Idaho Public Television; and Kate Haas, Kestrel West.

Legislative Services Office staff in attendance included Director Eric Milstead, Terri Kondeff, Glenn Harris, Cathy Holland-Smith, Mike Nugent, April Renfro, Paul Headlee, Shelley Sheridan, Lara Margelofsky, Lisa Kidman, Jennifer Kish, Kristen Butler, Benjamin Woodward, Carmen Willis, Ben Klotthor, Carolyn Hughes, Jonathan Martin, Jared Hoskins, Robin Lockett, Jared Tatro, and Elizabeth Bowen.

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

Senator Bair moved that the minutes of May 19, 2015, be approved as amended, seconded by Representative Rusche, and the motion passed unanimously by voice vote.

Chairman Hill noted changes to the 2015 Interim Committee Appointments:

- Broadband Access Study Committee: Sen. Shawn Keough replaced Sen. Dean Cameron
- State Purchasing Laws: Sen. Abby Lee replaced Sen. John Tippetts
- Natural Resources Interim Committee: Sen. Bert Brackett (Ad Hoc) became permanent member and replaced Sen. Dean Cameron
- Health Care Task Force: Sen. Lee Heider replaced Sen. Dean Cameron and was named Chairman, and Sen. Bob Nonini was added.

Senator Davis moved that the changes to the interim committee appointments be ratified, seconded by Speaker Bedke, and the motion passed unanimously by voice vote.

LSO Director's Report

Chairman Hill introduced Eric Milstead, Director, Legislative Services Office (LSO). Director Milstead introduced nine new LSO staff members:

- Carmen Willis, Staff Auditor III, Audit Division
- Carolyn Hughes, Staff Auditor I, Audit Division
- Benjamin Woodward, Staff Auditor I, Audit Division
- Ben Klotthor, Staff Auditor I, Audit Division
- Kristen Butler, Staff Auditor I, Audit Division
- Lara Margelofsky, Editor, Research and Legislation

- Jennifer Kish, Information Liaison, Research and Legislation
- Jonathan Martin, Network Analyst, Information Technology
- Lisa Kidman, Administrative Assistant, Central Administration

Director Milstead continued by reviewing changes to the Strategic Plan. Chairman Hill asked if, in regard to page 6 of the Strategic Plan, other companies provided the same services as Thomson Reuters and if changes would limit LSO's ability to look at other possibilities. Director Milstead replied that the relationship has been long-standing and it is unknown if other companies provide that service. Senator Davis asked if negotiations could include adding annotations to the web versions of Idaho Code. Director Milstead responded that adding annotations has been part of an ongoing discussion and are copyrighted. He added that it would be a significant endeavor, and that there are restrictions to what can be provided online. Senator Davis thanked Director Milstead and LSO staff for making online historical material searchable. Director Milstead noted that Kristin Ford, LSO Legislative Librarian, was responsible for that. Senator Davis requested a grammatical change on page 8. In regard to the Strategic Plan, Senator Davis requested Director Milstead double-check the reference to the Western Division of CSG; the correct title being CSG West. Director Milstead will verify the spelling.

Senator Burgoyne moved to approve the Fiscal Year 2016 Strategic Plan, seconded by Representative Collins, and the motion passed unanimously by voice vote.

Director Milstead reviewed LSO's Fiscal Year 2017 Appropriation Request. Director Milstead stated that the request is essentially a maintenance budget and includes: Benefit Costs of \$20,700, which will appear in every state agency's budget going before JFAC and reflects an increase in costs of \$340 per FTP for the upcoming year; Replacement Items in the amount of \$35,100, which includes \$27,600 from the General Fund to replace 9 laptops in Audit, 12 computers and software upgrades for the Joint Finance-Appropriations Committee (JFAC) staff, and 2 replacement computers in the JFAC room; Statewide Cost Allocation decreases from fees associated with the State Controller and Treasurer; 27th Payroll, which also will be in every state agency's budget and catches up payroll for the past 11 to 12 years where there were the typical 26 payrolls that did not equate to a full 365 days; and Change in Employee Compensation (CEC) 1% Calculator, which also will be in every state agency's budget and is a placeholder that provides an easy multiplier for JFAC to use in the event the joint committees want to increase or reduce CEC. Director Milstead noted that the total request of \$7,461,000 is approximately a 4% increase over last year's original appropriation, the bulk being the 27th payroll and 1% CEC placeholder. Chairman Hill noted that approval of the appropriation request by Legislative Council (Council) authorizes LSO to present the request to JFAC.

Senator Bair moved to approve LSO's Fiscal Year 2017 Appropriation Request, seconded by Senator Stennett. Representative Rusche noted that items on the agenda could impact the budget and asked if approval would preclude the Council from acting on those items. Senator Hill responded no and that the Council could rework the motion if that occurs. Motion to approve LSO's Fiscal Year 2017 Appropriation Request passed unanimously by voice vote.

2016 Legislative Session Plans

Speaker Bedke recommended that last year's ethics training be replaced with the Building Trust through Civil Discourse Workshop presented by Next Generation. He stated the workshop goes deeper than its title and that comments made about the national political discourse are not all that civil and bleed into Idaho, both across the aisle and within the caucuses. Speaker Bedke stated that the exercises in early November were very useful and that the workshop for all members is scheduled for all day on Tuesday, January 12, 2016. Senator Burgoyne agreed that the program was good and worth the time and added that Idaho does not have the kind of problem seen at the national level but is not immune, and the November program would be a good reminder and wake-up call. Chairman Hill stated that the program will provide practical applications and it helped him be more sensitive to others' concerns. He noted that the presenters were surprised at how civil

the Idaho Legislature's relationship was between houses and parties. Representative Rusche agreed the exercise was valuable in reinforcing a culture that promotes a successful performance of duties. He stated that continuing education is important and suggested the Council move forward. Senator Bair asked what was the associated cost and time. Chairman Hill replied there are some costs, but none to the state and that there could be some sponsors and grants. He stated the time will be half a day including lunch. Senator Stennett asked what the Idaho Statesman's involvement would be since they sponsored the November dinner. Chairman Hill replied that the Idaho Statesman was participating as a whole with a commitment in improving civility at the media level. Chairman Hill stated the financial cost to the Legislature is really low as only lunch will be provided. Senator Davis asked if Director Milstead would obtain pre-approval with the Idaho State Bar so legislators could obtain Continuing Legal Education credit. Director Milstead agreed.

Speaker Bedke stated that the Idaho Statesman's role is more of patient than physician and that the workshop is a good reminder to separate personality from the issue. The Council gave unanimous consent to move forward with the workshop.

Chairman Hill referenced the Legislative Calendar that reflects a number of deadlines required by legislative rule and statute, with the exception of the sine die target date and JFAC target date for completion of the budget. Senator Davis noted that the 55th legislative day for transmittals will always be on a Saturday, other than in a leap year, and suggested changing the joint rule to reflect the 57th day so that it falls on a Monday. Chairman Hill suggested that Director Milstead draft the change to the joint rule for next session. Senator Davis added that it could be moved to the 57th, with the understanding that in four years you have the same problem; or state "the Monday following the 55th day." Speaker Bedke suggested Director Milstead coordinate with the majority leader of both houses.

Legislative Interns

Chairman Hill introduced Representative Wendy Jaquet, coordinator of Boise State University (BSU) Public Policy and Administration. Representative Jaquet also introduced Justin Vaughn, Intern Program Coordinator for the Political Science Department. Representative Jaquet stated that former Intern Program Coordinator, Professor Gary Moncrief, noticed a drop in participants and thought it might be related to financing. Professor Vaughn also noticed the drop, queried interns, and realized the \$750 for the three required credits was a barrier for most students. Representative Jaquet stated that fund raising could help address that barrier and noted that letters were sent asking for help with funding; to date, approximately \$8,000 has been raised for scholarships.

Representative Jaquet stated that she is working with LSO's Elizabeth Bowen to coordinate an orientation to include three compulsory programs for scholarship recipients. The orientation is scheduled for January 20, 2016. Representative King asked if Idaho State University (ISU) or the University of Idaho (UI) have any interest in joining. Representative Jaquet stated that she had one conversation with ISU and is working with the UI, which will have two interns participating. Representative King asked if interns will be nonpartisan. Representative Jaquet responded that the program is open to both partisan and nonpartisan and believes the experience could be helpful and that investing in the interns is positive.

Speaker Bedke recommended a more regimented and formal process with minimum guidelines for legislators. He requested more oversight on who gets interns and who does not. Senator Stennett stated that, in her experience, the process has been tight with regular schedules and that legislators have responsibility within their own office to have oversight. Representative Rusche asked if there should be outreach to nursing programs and social services as well as Lewis-Clark State College and the universities as it is hard to get them integrated into the flow of BSU. Representative Jaquet responded that the School of Public Service has political science, public administration, criminology, and some institutes. The dean is also reaching out to other departments. Representative Jaquet agreed with Speaker Bedke to have a more structured process.

Speaker Bedke recommended a policy statement to avoid judgment calls. Chairman Hill stated that many interns in the past were brought on by legislators themselves and asked how that will work with the current volunteer process. Representative Jaquet stated that an application needs to be filled out by all interns, and LSO will still make the initial screening, regardless. Chairman Hill asked what the \$750 covers. Representative Jaquet responded that the \$750 was to offset the cost of college credits. Speaker Bedke noted that clarifying where a volunteer stops and an intern starts is important. He stated that a clear direction is needed on how many volunteers there will be and what is expected. Senator Davis stated that past problems have been addressed as part of the intern training going forward. Senator Davis added that his past interns found the training valuable. Representative King asked if the interns would be juniors or seniors. Representative Jaquet responded that the political science students will be juniors and seniors who will be screened by faculty to make sure they are qualified. Representative Jaquet introduced Dr. Cory Cook, Dean of BSU's School of Public Service. Dr. Cook greeted the Council and stated he was eager to be a resource for legislators and agencies.

Interim Committee Reports

Broadband Access Study Committee

Brooke Brouman, Principal Legislative Research Analyst, LSO, stated that she staffed the Broadband Access Study Committee along with Paul Headlee and Shelley Sheridan and that the committee was formed under HCR 26 to study broadband service issues in schools and agencies in Idaho. The committee has met three times - once in July and twice in October, with a total of 31 presentations. Ms. Brouman stated the committee heard from the Idaho Education Technology Association (IETA), several school districts, an E-rate specialist, Departments of Administration and Education, private providers who spoke of their services and various types of technology available, the National Conference of State Legislatures (NCSL), and chief information officers from BSU, UI, and ISU who spoke about the Idaho Regional Optical Network (IRON). She stated that the committee also heard from representatives from libraries, who are interested because libraries are also E-rate eligible. The committee also heard from state agencies including the Idaho Transportation Department; Department of Commerce; Department of Corrections; State Tax Commission, who explained the Broadband Tax Credit; Department of Health and Welfare; Department of Labor; and the Bureau of Homeland Security. Additionally, the committee heard presentations from the Idaho Rural Partnership, and several counties and cities. The last presentation was from the Mayor of Ammon City, which has its own system of providing broadband services. Ms. Brouman stated that a fourth committee meeting is scheduled for November 20, 2015, and will be a roundtable discussion with a facilitator, Will Goodman, past president of the Idaho Education Technology Association and formerly with the Department of Education. She stated that the chairman of the broadband committee wanted to convey to the Council that in going through the study process, it is clear that broadband is a significant issue for all of Idaho and planning needs to be long-term. Speaker Bedke asked if the committee will have specific recommendations for the Legislature. Ms. Brouman responded that the question will be fleshed out at the next meeting, but believes there will be legislation proposed. Representative King asked what IRON was and how it was selected. Ms. Brouman stated that IRON is a nonprofit from which the universities lease fiber. She will obtain additional information for the Council. Representative Rusche stated that he is amazed at how disjointed telecommunications and Internet are in the state and he was surprised to learn that the Idaho Transportation Department does not lay fiber when roadwork is done. Representative Rusche stated that there is not an organized vision assisting the development of this necessary utility for 21st Century life and business. He expects statutory changes with the IEN. Senator Davis added that he is on the broadband committee, as well as the Purchasing Laws Interim Committee, and that one of the problems is that Idaho is working with a 1978 statute in a 21st Century world. He stated there has been inconsistent policy, but there is more congruency and opportunity out there. Senator Davis stated that the committees are challenged to come back with consistent recommendations that will not be

easy to pull together. He added that the Legislature will see expressed proposals and may need to consider working out purchasing requirements first. Senator Burgoyne asked how E-rate dollars relate to providing broadband to schools and if the infrastructure could be used by everyone. Ms. Brouman responded that everyone could use the fiber, but only schools and libraries are E-rate eligible and would be reimbursed between 20% and 90%. Senator Davis stated that some schools need help, some do not, and that it is a very complicated issue.

Natural Resources Interim Committee

Katharine Gerrity, Principal Legislative Research Analyst, LSO, stated that she staffed the Natural Resources Interim Committee along with Ray Houston and Jackie Gunn. She noted that the committee's report was provided for the Council's review. Ms. Gerrity stated that one meeting was held on October 16, 2015, where members were extensively briefed by the Attorney General and the Department of Water Resources regarding efforts to resolve Eastern Snake Plain Aquifer issues. She stated that participating members of the Surface Water Coalition and the Idaho Ground Water Appropriators have reached a settlement agreement, which was finalized on August 1, 2015.

The Department of Lands gave a presentation relating to policy alternatives regarding public access to endowment lands. Ms. Gerrity stated that the public is not currently being charged for recreational use. The public believes there is a need for the board to adopt a formal policy for dispersed recreation. She stated that the options being discussed are to retain the current approach, retain most of the current approach but consider exclusive-use leasing for recreational purposes such as hunting, or keep the lands open but charge a fee for recreational use.

The Department of Fish and Game and the Office of Species Conservations presented a sage-grouse update. This fall the U.S. Fish and Wildlife Service determined that the species did not warrant listing under the Endangered Species Act, but prior to that the Department of the Interior developed new management restrictions and a new habitat zone outside of the collaborative process that the state has been involved with. In September, the state filed suit challenging the new management restrictions and habitat zones, asserting that the last-minute internal process used by the federal government violates federal law.

The Department of Lands addressed the costs associated with the fire season, and as of October 6, 2015, costs to the suppression account were over \$72 million, which did not include the Walker Fire near Idaho City because it was still ongoing. The current number reflects that costs are up to \$78 million. Ms. Gerrity stated that Idaho will be reimbursed about \$18 million from other agencies, such as the Bureau of Land Management. As of October 13, 2015, approximately 739,000 acres have burned this year - 75,000 of which are in the Department of Lands' protection - and, according to the state forester, that is 617% of the 20-year average.

Senator Stennett noted the backlash from charging fees at trailheads and asked if an approach was discussed. Ms. Gerrity responded that it was not discussed specifically; only the options available had been discussed. Senator Stennett asked what the total cost was for the state for fires. Ms. Gerrity deferred to Ray Houston, Principal Budget & Policy Analyst, LSO, who responded that fire protection is allocated through districts. The state protects about 6.3 million acres, and whatever fires occur on that land is protected by the state and is the state's responsibility, which amounts to 10% to 11%. Mr. Houston added that there are offset agreements between the Forest Service and the state to protect the private and remaining lands. Speaker Bedke asked if the state is tasked with putting out fires on lands not managed by the state and if the associated costs are increased by doing so. He asked if it's markedly cheaper to fight fires with the state's management model as opposed to the federal model. Mr. Houston responded that out of the 739,000 acres burned, only about 20,000 were on state lands. The majority of the fires were started on private or public lands not owned by the state. Mr. Houston confirmed that fires go down when they reach managed areas versus an unmanaged area. He stated that the biggest costs occur in urban areas like the Complex Fire, which cost \$25 million. Senator Bayer asked Mr. Houston to discuss last session's appropriation

regarding anticipated expenses in firefighting. Mr. Houston responded that, in the past, payment of deficiency warrants of outstanding balances lagged a year; therefore, fire costs were reimbursed based on the actual balance at the end of the fiscal year. He stated that last year the state caught up by adding an additional \$27 million to pay the estimated costs for the 2014 fire season. Mr. Houston stated that an estimated \$60 million is expected this year, which will be paid over a period of time. He stated the Legislature could either put the \$60 million into the fire suppression account or wait and let the General Fund pay for the costs and reimburse it later.

Idaho Council on Indian Affairs

Ryan Bush, Principal Legislative Research Analyst, LSO, reported that the Idaho Council on Indian Affairs has not met yet but is scheduled to on December 8, 2015. He stated that there will be three new tribal leaders on the council. Blaine Edmo was elected chairman of the Shoshone-Bannock Tribes, Lindsey Manning was elected chairman of the Shoshone-Paiute Tribes, and Anthony Johnson was elected chairman of the Nez Perce Tribe following the retirement of Vice Chairman Silas Whitman. He stated that a new vice chairman will be elected at the next meeting. Mr. Bush is working with Representative Gibbs to compile an agenda.

Public Defense Reform Interim Committee

Mr. Bush stated that he is working with Jared Hoskins and Jackie Gunn, both of LSO, and that the committee has met twice and will meet again on November 10, 2015. Mr. Bush stated that the committee has received input from the Idaho Supreme Court, the Association of Counties, and the Public Defense Commission; it received an update from the Attorney General's Office on the American Civil Liberties Union (ACLU) lawsuit on what the ACLU claims is an inadequate state public defense system. Mr. Bush stated that the committee discussed possible funding options for public defense reform and the role of the Public Defense Commission in enforcing qualification standards and reporting requirements for public defenders. Mr. Bush stated that draft legislation will be discussed at the next committee meeting.

Criminal Justice Reinvestment Oversight Committee

Mr. Bush stated that the committee is scheduled to meet on November 19, 2015. Mr. Bush is working with the Council on State Governments (CSG) and the co-chair on compiling an agenda. He stated the meeting will contain agency-specific updates on the justice reinvestment initiative, how it's progressing, and any steps that need to be taken.

Representative Rusche asked for the status on the lawsuit. Mr. Bush responded that the lawsuit is still in preliminary hearings. He stated that there is a hearing scheduled in December 2015 on the scope of discovery and that a new judge was appointed in the fall, which set the process back. Senator Davis asked if the ideas being kicked around have county buy-in or a collective financial agreement, and what is the progress. Mr. Bush replied that the counties are involved and will have more input once draft legislation is reviewed. He stated that the model used on the draft legislation was discussed at the last meeting, and the counties did not seem to have objections. Senator Burgoyne asked if the committee was looking for a solution for next session or to an incremental step. Mr. Bush responded that the committee's intention is to present legislation this year to fix the public defense system.

Purchasing Laws Interim Committee

Elizabeth Bowen, Principal Legislative Research Analyst, LSO, stated that HCR 23 authorized the committee to study the purchasing laws with a view toward revising and modernizing them. Ms. Bowen stated that she staffed the committee along with Robyn Lockett and Jennifer Kish, both of LSO. The committee is co-chaired by Senator Fred Martin and Representative Neil Anderson. She stated that the first meeting was held on August 5, 2015, at the Capitol, and subsequent meetings were held at ISU in Pocatello on September 29-30, 2015, and at the Capitol on October 15, 2015; the next meeting is scheduled for November 13, 2015. Ms. Bowen noted that two non-legislative

members were appointed to the committee: Dru Nakaya, Attorney, J.R. Simplot Co.; and John Riggins, Idaho State Police. She stated that the committee meetings have been largely informational and presentations were made on the state's purchasing laws and practices from the Division of Purchasing, the Attorney General's Office, and the Office of Performance Evaluations.

The committee also heard presentations on private sector purchasing and purchasing by the Idaho National Laboratory. Kent Beers, Director, Utah Division of Purchasing and General Services, spoke about Utah's recent experience with updating and revising its purchasing laws, which was a five-year process. Ms. Bowen stated that the committee studied purchasing, higher education, and purchasing by political subdivisions. She stated that Kristin Ford, State Legislative Librarian, gave a legislative history of the purchasing laws, and Ms. Lockett presented a fiscal overview of state purchasing, which accounts for almost 20% of the state's expenditures. She stated that LSO conducted a survey of agency directors and purchasing staff on various aspects of state purchasing and those results were presented by Ms. Lockett at the Pocatello meeting. Ms. Bowen stated that the committee has taken public testimony in both Boise and Pocatello, and at the October 15, 2015 meeting the committee received recommendations on changes to the purchasing laws from Bill Burns, Administrator of the Division of Purchasing, and from legislative advisors. The committee's co-chair, Representative Anderson, proposed a list of more than 20 issues for the committee to consider and possibly recommend legislative action. Some of those ideas included centralizing or decentralizing state purchasing, revising or recodifying the laws for clarity, adopting ethics provisions in statute for state employees, and enacting statutory provisions on contract monitoring and administrators' delegation of authority. The committee will prepare a final report with its recommendations and include draft legislation and possible reauthorization of the committee. Ms. Bowen will present a draft on recodification at the next meeting.

Representative Rusche asked if the committee was looking at ways to address and improve compliance. Ms. Bowen confirmed that was an issue to be addressed. Senator Davis stated that the takeaway was compliance and that the related statute was enacted in the 1970s. He stated that the American Bar Association (ABA) does remarkable work in purchasing issues and has a section dealing with governmental purchasing and best practices. He stated that the ABA's model act is more than 15 years old, whereas Idaho's model is older than that. Senator Davis stated that when Utah updated its laws, it took the 2000 version and used about 70% of the same language. He stated that the ABA is currently updating that section, and that Idaho's incremental changes caused negative pushback. Senator Davis stated that Idaho currently criminalizes noncompliance, which he believes Idaho should not do, and that better tools need to be given to state and local government.

Health Care Task Force

Ms. Bowen stated that she staffed the task force along with Jared Tatro and Jackie Gunn, both of LSO. The task force met on October 13, 2015, and all members were present except Senator Bob Nonini and Representative Luke Malek. She stated that the task force heard presentations from Jared Tatro, Principal Budget & Policy Analyst, LSO, on the Department of Health and Welfare's fiscal year 2017 budget; Director Dick Armstrong and Dr. Christine Hahn, Department of Health and Welfare, who provided an update on the Epidiolex expanding access program; and Director Dean Cameron, Department of Insurance, presented the status of health insurance in Idaho. Ms. Bowen stated that updates were given by the Health Quality Planning Commission, High Risk Reinsurance Pool, and Your Health Idaho.

Ms. Bowen stated that the task force moved that health care issues should be studied by interim committees specifically authorized by concurrent resolution rather than the task force. The motion was adopted, with two representatives voting against it. Representative Collins advised the Council that the task force was started in 1999 and originally co-chaired by Senator Cameron. He stated that the Legislature gave a new directive, and there were a lot of vague inquiries about how the task force came to be. Representative Collins stated that the task force has resolved some issues,

but over time it has evolved, and the authorization from the Legislature is not there. He added, however, that it has been worthwhile and goals have been accomplished. Representative Rusche stated that he voted against the motion that the task force reconvene on an issue-driven, as-needed basis because of the need for ongoing education and the limited expertise within the Legislature and that it would be a disservice to the citizens. He suggested moving away from the reinsurance pool and looking into issues of health policy. Speaker Bedke asked what the proposed solution was for handling the issues since the current process does not work. Representative Rusche responded that the Council could find a way but noted concern with multiple resolutions and the decision of which ones to work on. Senator Bayer stated that a concurrent resolution is done every two years on whether the Natural Resources Interim Committee should continue. Senator Burgoyne also noted concern over an "issue-driven" approach because it makes it feel episodic and narrow and that if there was an issue-driven resolution on health care every two-years, the committee members might change more often, where a more long-term commitment might be more useful. Chairman Hill stated that this has been an issue for many years and that a motion by the Council would be appropriate. Representative Moyle stated that the recommendation was good to move forward and a resolution would give the Legislature an opportunity to be involved. Senator Davis noted the recommendations are to the Council, not the Legislature, and asked if the Council was expected to act today or was it just a report. Representative Rusche stated that the statutes will need to be changed if the task force goes away. He agreed with authorizing the committee every one to two years, but was concerned with abandoning a useful tool.

Chairman Hill asked if the Council agreed with the two recommendations that the task force prepare legislation to amend Idaho Code Section 56-1504(5)(g) and Senate Bill 1314 (2006). Representative Collins clarified that the recommendation to amend the statutes was to change the reporting requirement of the High Risk Reinsurance Pool to the task force. Speaker Bedke stated he is not arguing any points made by the task force, but is concerned with the structure by which it goes forward and suggested a more formalized process. Senator Davis stated that predecessors created the task force and felt it was of value and that there was an ongoing problem within the state, but that does not mean the task force has to continue. He clarified the options of either allowing the task force to continue as it historically has, which is to gather and study information, make recommendations, and propose legislation adding language that the reporting requirement goes to the germane committees and the Council, or to have the Legislature decide every two years what the committees are and the topics to be considered, which will require repealing all of the health care task force language and add that the concurrent resolution process will be followed.

Chairman Hill clarified that the Council's decision does not bind the Legislature, and the purpose was for information and recommendations by the task force. He stated that the task force was set up by reference, which does not require the Council to appoint members, which Council most likely would not do without a resolution, which he hears no objection to. Senator Davis stated that Sections 20 and 21 of SB 1314 (2006) session law may need to be repealed as it provides the duties of the health care task force as long as it is active.

Chairman Hill asked Ms. Bowen for the results of her analysis. Ms. Bowen stated that Representative Wood presented the recommendation, which was adopted by the committee, as written. She added that item six of the recommendation was a little inaccurate in what the task force's duty was as assigned by law. Ms. Bowen stated that the task force was assigned a duty to monitor the effects of the act and to make recommendations to the Legislature. Ms. Bowen stated there was some confusion about whether these requirements required reporting to the germane committees. She stated that item five of the recommendation regarding the Health Quality Planning Commission requires a report to the germane committees; however, that is not the case for item six with regard to the high risk reinsurance pool, which duties are assigned to the task force alone. Senator Stennett recommended more structure and to keep in mind the state's responsibility and budget. She clarified that her recommendation is to leave it in statute as opposed to an interim committee.

No motion was made by the Council. Chairman Hill stated that the statute, as written, is somewhat nebulous and suggested someone clean it up, but not at the recommendation of the Council. Speaker Bedke commented that more structure will be needed before additional people are named in the future. Senator Davis reminded the Council that Section 20 talks about noncodified, yet enacted, language regarding the duty of the Pro-Tem and the Speaker as it relates to the task force and that either the session law from 2006 needs to be revisited or the language of the session law reviewed.

Urban Renewal Interim Committee

Mike Nugent, Division Manager, Research and Legislation, LSO, stated that the Urban Renewal Interim Committee was created by the adoption of HCR 17 to undertake a complete study of urban renewal plans and issues. Mr. Nugent staffed the committee along with Keith Bybee, Charmi Arregui, and Lara Margelofsky, all of LSO, and co-chaired by Representative Rick Youngblood and Senator Dan Johnson. He stated that meetings were held on August 10, 2015, September 21, 2015, October 19, 2015, and another meeting is scheduled on November 16, 2015, at the Capitol. Mr. Nugent stated that the task force heard testimony from Ryan Armbruster, chief architect of urban renewal law in Idaho who serves as council to urban renewal agencies; Cameron Arial, Zions Bank, who discussed Utah's urban renewal law; Wayne Hoffman, Idaho Freedom Foundation; and Hubert Osborne, Tax Accountability Committee in Canyon County. Mr. Nugent stated that the statute in Chapter 20, Title 50, was enacted in 1965 and deals with urban blight. He added that the statute in Chapter 29, Title 50, deals with economic development in cities and counties. Mr. Nugent stated that the first meeting was informational and suggested anyone interested could read a law review article on LSO's website addressing tax increment financing (TIF). He stated that the committee found some successes as well as negative opinions throughout the state, including some contentious issues and lawsuits, and that the committee will figure out a road map on where it needs to go at the next meeting. He stated issues needing to be resolved include whether to elect the board, whether people are allowed to get court costs if there is an urban renewal agency that has violated the law, or whether to amend the Consumer Protection Act to include attorney general enforcement power. Mr. Nugent stated that the editorial regarding Canyon County was spurred by the Caldwell Urban Renewal Agency providing grants to schools and private entities and an administrative building built using TIF funds, and that it went around the constitutional requirement regarding a two-thirds vote. He stated that the cities and counties said it was needed, but the committee agreed that sideboards were needed and that it needed to discuss whether there are grants and whether public buildings should be provided with TIF funds. Mr. Nugent stated that the Association of Idaho Cities wants a local option tax similar to the Utah model. Mr. Nugent stated the committee will also discuss allowing the state building authority to build schools and local public buildings on a lease with an option to purchase so that public entities are not reliant on urban renewals for public use. Senator Stennett stated that it really does help a lot of communities and asked if those places where it is well used were also part of the greater discussion. Mr. Nugent confirmed that successes were also part of the discussion and not all examples were negative. He added that there was no central place for urban renewal plans anywhere in state government, which is where some of the frustration comes from.

Solar Energy Task Force (Ad Hoc)

Mr. Nugent reported that the task force is co-chaired by Senator Curt McKenzie and Representative Jeff Thompson. A meeting is scheduled for November 30, 2015, and includes an appearance by the Public Utilities Commission (PUC). He stated that the task force came from a case before the PUC addressing lengths of contracts and the avoided costs of solar projects under the federal PURPA law. He stated there is a petition for rehearing, so the PUC is hesitant to commit to appearing before the petition is ruled on. Mr. Nugent stated that the task force will hear from the regulated utilities, discuss payment in lieu of taxes available for wind and geothermal energy, and tour a nearby project.

Tax Working Group (Ad Hoc)

Director Milstead reported that the Tax Working Group met four times under the chairmanship of Senator Jeff Siddoway and Representative Collins. The group received input, discussed a wide range of tax-related topics, and heard testimony from representatives of the Department of Commerce, Division of Financial Management, State Tax Commission, National Federation of Independent Businesses, Associated Taxpayers of Idaho, Idaho Freedom Foundation, Idaho Retailers Association, Center for Fiscal Policy, and the Idaho Society of Certified Public Accountants. He stated the group also heard an overview of federal and state issues relating to Internet sales tax from the NCSL and a General Fund budget update from Cathy Holland-Smith. Director Milstead stated an additional meeting was scheduled for December 15, 2015, which will include a discussion of proposed draft legislation regarding income, residential, and corporate income tax rates, sales tax, personal property tax, and grocery tax credit.

The Council recessed at 11:00 a.m. and reconvened at 11:16 a.m.

Corrections Corporation of America - Update

Paul Panther, Criminal Law Division Chief, Office of the Attorney General, stated that, in total, the Department of Correction has had prisoners in three different prisons that were owned by CCA, the most recent being the Idaho Correctional Center in Boise. He stated that in 2014 the Department of Correction ended that relationship and took over operations. Mr. Panther stated there have been Idaho inmates in three different Texas institutions in 2006 and 2008 and a county jail in the 1990s. He stated that current contracts are with the Bonneville County Jail, which allows 100 beds; the Correctional Alternative Placement (CAP) facility south of Boise and operated by Management in Training Corporation, which allows 432 beds, and the current CCA contract, which is with the Kit Carson Correctional Center in Burlington, Colorado, which allows from 250 to 750 beds. Mr. Panther stated that there is almost no litigation from the CAP facility because offenders are there for a short period of time for rehabilitation. He stated that traditionally there were inmates in county jails all over the state and at different times with very little litigation, and only a few litigation cases came from the Kit Carson Correctional Center, most of which were related to medical care.

Mr. Panther introduced Tim Higgins, Deputy Warden and head of the Contract Oversight Department with the Department of Correction and formerly the head of investigations and intelligence coordinator at the Department of Correction from 2007 to 2011, known as the gang coordinator. Mr. Higgins stated that his primary responsibility is to supervise the contract of the prison oversight unit. He stated that all the prison contracts are monitored and in compliance. Mr. Higgins stated that 14% of the Department of Correction's offenders have to go into overflow facilities because state-operated facilities are short 14% of beds. He stated that the CAP facility has 320 offenders, county jails have 563 offenders, and the Kit Carson Correctional Center has 208 offenders, which equates to 1,091 beds being contracted out. Mr. Higgins stated that overflow has always been housed in county jails, but if another place cannot be located, offenders are sleeping on the floor in booking, and that local law enforcement cannot do their job and arrest anyone because there is no place to put them, which is why, in 2011, the Department of Correction looked into additional out-of-state contracts. Mr. Higgins stated that the bed count at that time was over 750 and a "catch and release" system was not acceptable. Mr. Higgins stated that a contract was entered into in 2012 with the Kit Carson Correctional Center through CCA, which is in Burlington, Colorado, 14 miles from the Kansas border. Mr. Higgins stated that the offenders are supervised by two full-time monitors working 40 hours per week and a member of Mr. Higgins' staff visits every other week. Mr. Higgins stated that he spends one week per month at the facility, and medical contract monitors visit once per month to prepare a half audit monthly; full audits are done every six months. The Idaho Department of Correction staff also performs full audits as well as the Colorado Department of Correction. He referenced the Contract Oversight Manual prepared for the Council. Mr. Higgins reported that the contracts are reviewed under tight scrutiny. He stated there were some issues with medical problems, which resulted in issuing liquidated damages of over \$7,000. Mr. Higgins stated that the Department of Correction requires facilities to comply with the National Commission on Correctional Health Care

Standards (NCCHC) as well as be certified by the American Correctional Association. Mr. Higgins stated that the current contract period for the Kit Carson Correctional Center has two more one-year renewable periods. The initial term started in July 2012 with a two-year initial contract period and four one-year renewable options. He stated the contract could extend until July 10, 2018, before a new contract would be needed. The Kit Carson Correctional Center also houses approximately 600 offenders from the Colorado Department of Correction, but they are completely isolated from Idaho offenders. Mr. Higgins stated that the per diem rate is \$55.17 per day, per inmate and full medical coverage is provided. He stated that annual contract cost for fiscal year 2016 was \$4,625,400 with possibly an additional transportation cost for transporting inmates to Boise for hearings.

Mr. Higgins stated that the contract with the CAP facility in Boise was from 2010 to 2015 with an indeterminate number of five-year renewal options. He stated the per diem costs are \$46.51 per day for any inmate under 388 offenders and \$26.90 per day for over 388 offenders, up to the maximum of 432 offenders. Mr. Higgins stated that the annual contract cost for 2016 was \$6,914,088 and that the current renewal period expires in 2020. Mr. Higgins stated that medical costs are not provided within the contract, so the Department of Correction contracts with Corizon at \$15 per day, per offender, which bumps the cost to \$62 per day, which is what is paid for a maximum security bed in a state-operated facility. Mr. Higgins stated that the program has a very good purpose and allows the Department of Correction to keep offenders from going back into the prison system by placing them into a temporary program where they can ultimately be released.

Mr. Higgins stated that of the 562 offenders in county jails, 206 are females. He stated the Department of Correction contracted with the Bonneville County jail to house some of the female offenders. Mr. Higgins stated a counselor from the Idaho Falls Community Work Center goes to the Bonneville County jail, provides counseling, and prepares the offenders for release on parole. Senator Stennett asked how much say does the state have in the oversight of the Kit Carson Correctional Center. Mr. Higgins replied that a Request for Proposal (RFP) was issued for the bed space. He stated that there were two main bids and, after heavy weighing, the CCA won the contract. He stated the contract was entered into prior to the issues at the Idaho Correctional Center and before heavy audits. Senator Stennett asked if the Department of Correction was capable, with the remaining contract, of having more intervention in their performance or oversight. Mr. Higgins responded that because of his extensive background in gangs and investigations, the director selected him to take over in 2011, which was when the oversight manuals were put together and was what led them to discover problems resulting in taking over the facility and canceling the contract. Mr. Higgins stated that the same type of manuals and programs were implemented at other facilities and the people were closely scrutinized. Senator Bayer asked what the calculation was of the \$5,517 annual cost that represents health care expenses. Mr. Higgins responded that \$15 per day is the current contract with Corizon for the CAP facility and the Kit Carson facility; the CCA has their own medical staff and health care is built in to their per diem costs. Representative King asked if policies regarding solitary confinement were also being changed at the Kit Carson Correctional Center and the Bonneville County jail. Mr. Higgins responded yes and that studies have shown that isolation associated with long-term segregation is not beneficial and that different groups were reviewed and considered for changes. Mr. Higgins stated that the disciplinary policy, use of force policy, restrictive house policy, and suicide prevention and intervention policies are monitored very closely at the Kit Carson Correctional Center and Bonneville County jail. Representative Rusche asked if there was data on how the contract centers perform compared to local facilities and if the program was appropriate and adequate. Mr. Higgins responded that the comparison was an apples to oranges comparison. He stated that the Kit Carson Correctional Center is not required to provide any programming and is for longer-term inmates before they are entered into programming. He stated that programming is most effective six months prior to an inmate's release and that some training is provided, but not programming. Mr. Higgins stated that the CAP facility provides programming, is a controlled environment, and that the inmates have a lot to lose and are trying to get out on probation or to the streets. He added that there is a lot of weight on the inmates to be compliant with the rules and

that the program starts first thing in the morning, goes all day, and is a great success. He stated the data is very promising, but the same level of programming cannot be done in other facilities because it is not as intense and there is not a hook for the inmates; therefore, they are not as focused.

ADA Improvements - Update

Jan Frew, Deputy Administrator, Division of Public Works, stated that the settlement agreement between the Capitol Commission and the Department of Justice through the United States Attorney's Office was provided for the Council's review. She stated that the actual verbiage is on nine pages, and the rest is a spreadsheet reflecting each item and a completion time frame to address the ADA access improvements to the Capitol building. Ms. Frew stated that 13 items consisting of signage, door access, and protruding items were completed at the end of July 2015. She stated that the ADA guidelines detail placement of signs, which is challenging in some places of the Capitol. Chairman Hill asked how it was determined which offices needed new signs. Ms. Frew responded that the required offices were those with main doors for public access. Ms. Frew stated that the majority of the signs have been installed. She noted that some temporary installations have been made to meet the July deadline, including installation of tension rods for the mail boxes. Ms. Frew stated that permanent installation will be completed by the start of the session. Ms. Frew stated that funding took longer, which delayed the installation. Sixty items are required to be completed by the end of December, including exterior signage, new accessible entrances, directional signs, and emergency communications. She stated that exterior signage will be at each entry to the Capitol directing those needing access to the nearest entrance. Ms. Frew stated the added accessible entrances make entry available to more people and to more areas and referenced a site diagram showing the work being done at the east and west porticos. She stated the Jefferson Street slopes that are out of compliance and have drainage issues will be out for bid in the spring and summer of 2016. Chairman Hill asked if the ADA rules were changed with regard to the slope of the ramps or was a mistake made. Ms. Frew responded that the rules have not changed and only sections of the ramp do not meet the requirement; however, it was shown correctly in the specifications. She stated that the contractor was required to tear out some portions of the ramps more than once, and at the time the ramps were accepted they were thought to be in compliance. Chairman Hill asked if the existing ramps could still be used. Ms. Frew confirmed they could still be used and added that more concrete was removed than anticipated in adding the accessible entrances, which created the need to check compliance on all other areas surrounding the entrances. Ms. Frew stated that the modifications in the Lincoln Auditorium, which includes five wheelchair and companion seating and movable armrests, is expected to be completed in July 2016. Ms. Frew stated that modifications to the House and Senate Gallery seating are expected to be completed in December 2016 and hardware retrofit on public access doors is expected to be completed by December 2016. She noted that the hardware is pushed out to December because designing historical replica hardware of an accessible design could take a year.

Speaker Bedke stated that the contractor should be responsible for the expense of modifications due to noncompliance since the ADA rules have not changed. Ms. Frew responded that the rules have not changed, but the interpretations have. For example, the Division of Building Safety and the ACHQA interpreted that the new entrances would not be needed because the Capitol is a historical building; however, the Department of Justice interpreted that new building standards needed to be met because \$120 million was being spent. Speaker Bedke reiterated that the responsibility should still lie with the contractor and asked if the error was questioned. Ms. Frew responded that ACHQA has been very cooperative in helping develop solutions and has not been charging for solutions for errors that should have been caught in their design. She stated that the slopes are a shared responsibility because they were accepted, and ACHQA's design was correct but they were unaware that portions were out of compliance. Ms. Frew stated that the contractor has been responsive in fixing some items, but has not indicated that they will replace the entire ramp.

Speaker Bedke added that removing the picnic tables from the lawn was also folly. Ms. Frew responded that the picnic tables could stay on the lawn if sidewalks were added for accessibility. Chairman Hill asked if the same was true on all public property. Ms. Frew responded yes and that there has to be a certain percentage of accessibility and anything installed after the ADA was in place must meet those standards. Senator Davis asked if the Division of Public Works has entered into any agreements with any of the designers or contractors saying that we waive any claims against them as a result of the audit and the Department of Justice determinations. Ms. Frew responded no. Senator Davis asked if a legal review has been done as to whether there is financial culpability by those involved in the design and build of the Capitol improvements in question. Ms. Frew responded that the Attorney General's Office was involved in developing the settlement agreement and was asked if it was something that should be pursued against the contracts. She stated that the practical answer for the Division of Public Works was that the most costly items were a difference in interpretation, for which the designers could not be held responsible and it was not worth the time and money to pursue legal action. Senator Davis asked if the Division of Public Works asked for an opinion by the Attorney General's Office. Ms. Frew responded that discussions took place, but no official opinion was requested, and the mutual conclusion was that legal action would not be pursued. Senator Davis asked if the state just rolled over and accepted those interpretations or if a formal determination or arbitration should be requested. Ms. Frew stated a judicial review was not requested because the state would be up against the U.S. Department of Justice and the U.S. Attorney. She stated that conversations were held with the state Attorney General's Office, Department of Administration, Division of Public Works, and the Capitol Commission and it was determined to do what was practical, in the best interest of the state, and the right thing to do. Senator Burgoyne asked what the cost was of the settlement agreement. Ms. Frew responded that the initial estimate was \$400,000. Senator Burgoyne stated that a \$400,000 error in a \$120 million project is not much, but the cost should still rest with the proper party, which means figuring out who the proper party is. He asked if the contract with ACHQA had a provision stating that the risk of re-interpretation would fall on the state or ACHQA, and whether the contracts with the contractor and ACHQA have an arbitration provision that may have an impact on the viability of litigation. Ms. Frew responded that there was no provision in the ACHQA contract for re-interpretation and no arbitration requirement, but there was a mediation requirement prior to any legal action. Senator Burgoyne stated that if Idaho was his client, he would determine if litigation and mediation made sense and added that the threshold for mediation is low, which seems appropriate. Chairman Hill stated that a lesson needs to be learned with regard to renovating historical buildings in general, but assurance is needed from the Department of Justice that when a project is done, its done. Chairman Hill appreciates the work of the Division of Public Works. He stated that some of the provisions are difficult to understand but the right thing needs to be done for those citizens. Senator Bayer asked if there were insurance provisions on part of the state to help cover the expenses. Ms. Frew stated that she is not aware of any insurance provisions. Senator Bayer asked that in the event expenses were incurred due to less than optimal inspection, there should be provisions to cover those scenarios and help with expenses. Senator Burgoyne stated it would be worthwhile to ensure the contracts are right. Ms. Frew asked the Council for patience during construction and that the east and west porticos should be open next week.

The Council recessed at 12:20 p.m. and reconvened at 1:20 p.m.

2016 CSG West Annual Meeting in CDA - Update

Director Milstead provided an update on the CSG West Annual Meeting scheduled for September 2016 in Coeur d'Alene. He stated that LSO is working closely with Chairman Thompson and Edgar Ruiz at CSG. LSO toured the facility in Couer d'Alene, proposed policy tour options and social events were selected, and work areas were lined out. Director Milstead stated LSO employees are volunteering to staff the event both in Couer d'Alene and from Boise and planning is ahead of schedule. He stated that speakers need to be selected and fundraising is ongoing with a meeting

scheduled in the next couple of weeks. Chairman Hill noted that a lot of work goes into planning the annual meeting and he appreciated LSO's work and stated it was a nice thing for Idaho. Senator Stennett noted appreciation for the large task LSO agreed to tackle and asked if legislators and people outside of LSO were helping. Director Milstead replied that CSG is providing an enormous amount of support and that LSO is ancillary to them. He stated that LSO is working closely with Chairman Thompson and legislators on the fundraising committee.

Chairman Hill adjusted the agenda so that both house majorities would be present for the discussion regarding the return and veto of a bill. Cathy Holland-Smith's presentation will precede that discussion. Chairman Hill also noted that Representatives Monks and Moyle were excused for the day.

Fiscal Year 2016 and Fiscal Year 2017 State Budget Update and Public Schools Update

Cathy Holland-Smith, Division Manager, Budget and Policy Analysis, reported on Fiscal Year 2016 and stated that at sine die 2015, \$44.9 million was expected to carry over to fiscal year 2016. She stated there was a surplus of \$92.3 million as of June 30, 2015. Additionally, legislation was passed totaling a "negative" \$10.9 million, which was not included in that revenue, so there is now \$103 million more in revenue than when the budget was set. Chairman Hill asked what the legislation was that totalled a negative. Ms. Holland-Smith explained that the impact of the \$10.9 million was a series of bills passed, but when revenue is recorded, the Division of Financial Management does not take the fiscal notes into account. Ms. Holland-Smith stated that agencies spent almost \$7.8 million less than appropriated and agencies with insurance settlements or that sell capital outlay get to spend that money again. She stated that a reappropriation was made to the Department of Parks and Recreation and that the State Department of Education was not expected to close the books on the broadband supplemental until July 31, 2015, and was allowed to carry that money forward. Ms. Holland-Smith stated that \$28 million was transferred to the Budget Stabilization Fund per Step 1 of House Bill 312, which states that transfers are not made for the following year but are for the current year. She stated that in the budgeting process, the \$92 million surplus was unrecognized, as specified in Step 2 of House Bill 312, and \$54.1 million went to the Budget Stabilization Fund and the Strategic Initiatives Fund, which is Idaho Transportation Department money and which will be included in the next session for appropriation. She added that the money sitting in transportation will need to be appropriated.

Ms. Holland-Smith stated that as of September 30, 2015, the reappropriation for Parks and Recreation and almost \$17 million from the Catastrophic Health Care Program, was an excess appropriation from last year being carried over and the after-year reversion of \$8.3 million from Health and Welfare adds to the cash. She stated that the Division of Financial Management revised the forecast in August, from 5.5% to 4.1%, yet there was more money because the 5.5% was based on the estimate for 2015, which was much lower, and for 2016, the revised 4.1% was calculated on a higher base. Ms. Holland-Smith noted that the Division of Financial Management clarified that of the \$92 million surplus, \$53.4 million was ongoing. Currently, there is additional revenue of \$68 million. Ms. Holland-Smith stated that if more revenue was generated, you would think the forecast was off and should be increased, but you will not have a final revenue number until January when the Governor puts out his revenue projection and it is unknown what the Economic Outlook and Revenue Assessment Committee will do. She stated that the January revenue number will indicate whether revenue was available for the Idaho Transportation Department at the end of the fiscal year.

Ms. Holland-Smith stated, with regard to transfers, the estimated transfer to the Budget Stabilization Fund dropped from \$29 million to \$5.8 million, so additional money is gathered because not as much money is expected for deposit into the Budget Stabilization Fund; therefore, more money is reflected on the bottom line. She stated that everything between 4% to 5% gets deposited to the Budget Stabilization Fund but not currently because there is only a 4.1% revenue projection.

Ms. Holland-Smith stated that \$324,000 is for deficiency warrants. She noted the prior testimony about the greater obligation for fires and that the Department of Lands did not request the money

because budgeting was changed in 2009, whereby bills were paid after they were incurred. Ms. Holland-Smith stated that \$27 million was appropriated and the Department of Lands spent \$11 million as a negative on June 30, 2015; \$16 million remained. She noted that the bills will be much higher than \$16 million and suggested setting some money aside. Ms. Holland-Smith stated that no one was trying to evade asking for the money, but budget rules were established that may not be the approach to take in the future.

Ms. Holland-Smith foresees the \$16.9 million going back to the General Fund. She noted a series of big supplementals combined with rescissions that result in a small number because they are balancing each other out. She stated that the CHIP program was extended, which resulted in savings, but there were other costs related to lawsuits and reorganization within the Department of Correction. Ms. Holland-Smith stated that the Secretary of State's Office has \$1.3 million because it is looking for match money for the counties. She stated that federal money was used for counties and the office felt it needed to use the money instead for maintenance cost of the voter registration system, so there is a one-time supplemental. She added that there was another one-time supplemental of about \$200,000 in the Department of Administration for IEN legal costs. There are other actions, but they do not add up to a lot. Ms. Holland-Smith stated that \$1,372,800 of the money carried over from 2015 for broadband was returned to the General Fund, as that appropriation ended on July 31, 2015.

Ms. Holland-Smith stated these are good numbers, steady and predictable revenue, and a budget that does not appear to be stretched. She stated there is \$99.6 million more in revenue in 2016 compared to when the budget was set; however, everything between the 4.1% and 5% in revenue growth will go to savings and will not contribute to the bottom line. Ms. Holland-Smith stated that revenue above January's new revenue forecast could be designated for the Idaho Transportation Department.

Speaker Bedke asked how much will go to the Strategic Initiatives Fund if the assumptions for fiscal years 2015 and 2016 come true. Ms. Holland-Smith responded that nothing would go to the fund because any revenue increase between 4.1% to 5% will go to savings first and to the Budget Stabilization Fund. She added that the Legislature is looking for unrecognized money and has an opportunity to set the budget again and there may be a series of appropriations that take place. Ms. Holland-Smith stated the money available is what remains after the budget is set and unrecognized money is generated.

Representative King asked if the projection is low, would there be more unrecognized funds and if it is higher, would there be less or more for education. Ms. Holland-Smith responded that if the revenue projection is less than actual revenue acquired in fiscal year 2016, then more money could go to the savings account. She stated that if revenue numbers are high, that revenue could be recognized in the budget; however, when the revenues were tanking and there was not a new forecast, the available revenues were decreased. There are two extremes: to make sure the Idaho Transportation Department does not get any money, the revenue projection should be pushed above what the economists say, or if you think the revenue will go down, then that would probably open the door to have more money go to the Idaho Transportation Department.

Representative Rusche asked Ms. Holland-Smith to confirm that the \$28.3 million was new money and if so, the difference between what was in the cash account at the end of 2015, and a 4.1% revenue increase should allow \$53 million more by the end of the year. Ms. Holland-Smith responded that the key is the new forecast in January, but with what is known now, that is correct. Representative Rusche asked if the reappropriations, appropriations, supplementals, etc., are in the budget bills passed last year and will they be spent unless the bills are changed. Ms. Holland-Smith clarified that the Legislature will be deciding on re-appropriations and supplementals and rescissions. Representative Rusche asked if, of the \$111 million, \$44 million came from last year and \$28 million is cash in hand, there is not much new because the revenue forecast is only 4%. Ms. Holland-Smith

responded that there is actually \$99 million more than expected. She stated the key is the ongoing money that was unknown at the time the budget was set and suggested looking at the ongoing money in making long-term commitments.

Ms. Holland-Smith continued her presentation on fiscal year 2017. She stated there is a requested 7.5% increase which includes one-time expenditures; benefit costs at \$340 per person; replacement items; annualizations at a negative \$3.1 million, which represents further reduction in costs for the CAT fund; the 1% CEC calculator for state government; the 27th payroll period costs; public schools CEC at \$2.1 million; military compensation; and nondiscretionary costs, which are mostly in public schools.

Ms. Holland-Smith noted there are 356 line items with all funds being requested. Senator Burgoyne stated that the comment of higher education enrollment declining is counter to the policy of getting more people to move on to secondary education. He asked if there was more to it and how much was it declining. Mr. Headlee responded that the decrease in enrollment is .5% to 1% and counter-cyclical with the economy, but it has leveled more than declined. He stated that during the recession, more people went back to school and the Legislature had less money to put into the Enrollment Workload Adjustment (EWA) formula. Senator Burgoyne asked if it was a trend or a short-term event. Mr. Headlee responded that there was a three-year trend of declining enrollment because the EWA formula uses a three-year rolling average. Representative King asked if an enrollment boost was expected. Mr. Headlee stated that approximately 20,000 letters were sent to seniors with the goal of increasing enrollment; however, it would be part of a three-year rolling average using the EWA formula. Representative Rusche asked if the workload adjustment factors were funded when enrollments were rising. Mr. Headlee responded that the workload adjustment was not funded in fiscal years 2010 and 2011, and the running tally is approximately \$10-15 million over those few years when enrollment was going up, but the state was in a holdback mode and did not have the revenues to make the appropriations. Senator Stennett asked if that money will be requested in their budget request and if it will be a new request. Mr. Headlee stated that the amount would be a line item request and JFAC would have to decide between new projects or fund the unfunded EWA from years past.

Ms. Holland-Smith reviewed a hypothetical budget for fiscal year 2017. She stated that between a 4% and 5% revenue forecast, there is \$20 million coming back in from the Economic Recovery Reserve Fund for the 27th payroll and the additional revenue will go to the savings account. She stated that the entire request could be funded with a 4% revenue growth (which would not represent all the actions of the Legislature) and still have an ending balance. Ms. Holland-Smith stated there is an estimated \$127 million of new revenue as compared to fiscal year 2016. The estimated ending balances are the same between the 4% and 4.5% because the difference in the revenue increase is going to savings. Ms. Holland-Smith noted what was not included in the request: the judicial branch fiscal year 2017 request, current obligations for fires, accounting system replacement at the Controller's Office, CEC above 1% calculator, deferred maintenance through Public Works-backlog, final enrollment growth in public schools, legislative interim committee recommendations, and deposits into the Public Education Stabilization Fund. Senator Bair asked if the commitment to education and the task force recommendation were included. Ms. Holland-Smith confirmed that the payables made are not shown. She stated that the public schools budget request includes a lot of what was in the task force recommendation. Representative King asked how money has been put into the public education stabilization fund. Ms. Holland-Smith responded that the Public Education Stabilization Fund is subject to appropriation and money can be taken in and out at the end of the year. Ms. Holland-Smith stated that money can be appropriated, deposited, and stopped for the Budget Stabilization Fund by passing a resolution. She stated that the Board of Examiners can, if at the end of the fiscal year there is not enough General Fund revenue, take up to .5 of 1% of the current year appropriation, which is about \$15 million. Ms. Holland-Smith stated that if by 2016 the revenue does not go up substantially, there will be \$341 million in the Budget

Stabilization Fund. Senator Burgoyne asked if the money in savings accrues earnings and if so, how much. Ms. Holland-Smith responded that PESF and HESF gets interest earnings, but the Budget Stabilization Fund interest goes straight to the General Fund.

Mr. Headlee reviewed an overview of the fiscal year 2017 public schools budget request submitted by Superintendent Ibarra. He noted there were three reports that provided the same level of detail, but each had a different perspective. He stated the request includes a \$111.7 million increase from the General Fund that includes: \$41.2 million for CEC; \$27.1 for discretionary dollars; \$8.0 million increase in base salary of classified staff, who are the furthest behind; \$7.5 million to restore transportation; \$5.0 million increase for literacy proficiency; and \$4.5 million for enrollment growth, which is approximately 20 students per class. He added that the department is expecting an additional 2,400 students in fiscal year 2017. Chairman Hill clarified that the interest from the Budget Stabilization Fund goes to the Permanent Building Fund.

Clarifying the Return and Veto of a Bill - Discussion

Speaker Bedke referenced draft legislation, for discussion purposes only, dealing with how to tell when a veto message was received. He stated the draft legislation is self-explanatory and does not change any current practices. He stated the legislation clarifies the date, time, and by whom the veto was received to avoid circumstances that led to the lawsuit of this year. Senator Davis stated that the Senate and House Journals are not the province of the executive branch and he does not support granting power to the executive branch to decide legislative practices. He asked if a bill should be rewritten based on one aberration over some decades. Representative Rusche expressed concern regarding how the Secretary of State could know when the bill was with the Governor for five days. He stated the Secretary of State is not involved until after the Governor signs. Speaker Bedke stated that he will always defend the separation of powers, but there seems to be a void and a problem that needs to be fixed to preserve separation, whether or not it is in rule. Speaker Bedke stated he is more comfortable with a rule; however, the draft is brought up to get a collective view. Senator Burgoyne agreed with Senator Davis and stated that the language regarding what goes in the Journal sounds like a legislative rule. He stated that the final section resembles Title 9, Idaho Code, regarding the authentication of documents and has a law component to it, which states what constitutes the fact for law. Senator Burgoyne noted that the statutes as written stood up in court and that he is reluctant to change them. Senator Bayer asked how, during session, the time of return could be documented and recorded when someone is not available to return a tangible bill. Chairman Hill responded that the statute states that the bill can be returned to any member of the body where it originated, and even when the bill was slipped under a door, it could be documented in the Journal. Senator Davis asked if a meeting with the Attorney General's Office should take place to explain authentication and possibly address the definition in Idaho Code in order to provide a more plain and fair understanding between the executive and legislative branch.

Technology Update

Glenn Harris, Division Manager, Information Technology, LSO, provided an update on changes for the upcoming session. He stated that the committee rooms have new presentation laptops, which have the help desk program installed to avoid having to call for technology assistance. He stated the old laptops will replace the old legislator laptops. Mr. Harris stated that some printers were replaced, primarily ones that were 16 years old. Mr. Harris stated the e-mail server was updated to Exchange 2013. He stated there will be no changes to Outlook on the laptops, but it will look different on mobile devices. He stated there is a new link to Capitol Calendars that shows the availability of multiple rooms. There will also be a shortcut on the legislators' desktops. From a non-state computer, the calendars can be accessed via idleginfo.idaho.gov. Mr. Harris explained that Gov Delivery is available for mass mailing and is suggested for all members. He added that Gov Delivery will prevent the Legislature's e-mail from being blacklisted and blocked. He added that users will have an option to subscribe to e-mail lists. Representative Rusche commented that Gov Delivery is great,

but reminded the members that the laptop is state property. Mr. Harris stated that Gov Delivery will be preset with the legislator's picture, but could be changed. Mr. Harris stated Web E-mail could be accessed with any browser, and that the website is the same but with an updated look.

Mr. Harris explained that security updates were made including locking down fire walls, anti-virus upgrades, VPN upgrades, and network penetration testing. He stated that the Application Team has been working on redesigning the website, and that the current website breaks easily, is not ADA-compliant, and has no mobile version. Mr. Harris stated the content will remain the same, but will include a new design. Mr. Harris affirmed the GEMS server software and client updates were improved and work was done on the Local Governing Entity Registry. Senator Burgoyne noted a problem with searching for state employees on the state's website. Mr. Harris responded that the employee search was not part of LSO's website, but he will mention that to the CIO.

Mr. Harris stated that licenses were upgraded to allow the Jabber program on smart phones, which shows who is calling on your computer and allows access to your voicemail and chat session from your computer. He added that accounts can be set up to allow you to use your smart phone as your desk phone and carry on business with a single phone number instead of releasing your cell phone number. He stated that when receiving desk calls on your cell phone, the receiver will only see your desk number, not your cell number. Chairman Hill asked if Jabber was needed to utilize that function. Mr. Harris stated that Jabber is a free application and allows your smart phone to be on LSO's phone system. Mr. Harris added that Information Technology is looking into video streaming committee room power point presentations, rather than video streaming the entire room.

The Council recessed at 2:58 p.m. and reconvened at 3:16 p.m.

Fiscal Notes - Other States' Approaches

Director Milstead presented an overview of other states' approaches to fiscal notes. He provided the Council with a high-level sketch of what was found in reviewing other states. He added that Jared Hoskins, Budget & Policy Analysis, LSO, did most of the research. Director Milstead stated that the Council requested a review of how fiscal notes are dealt with by other states, the level of detail required, what levels of government were included in the analysis, what entity is responsible for drafting, and what authority governs, and what kind and how many staff are involved. He stated the fiscal notes structure and process was reviewed in 15 peer states, which is defined by NCSL as states with traditional citizen legislatures, where legislators serve part time and compensation is low, and where they have reasonably small staffs in comparison to other states. Director Milstead said that the majority of these states codify their fiscal note requirements and have legislative rules supplementing code. He stated that Vermont's requirements were simply implied in their statute and New Mexico has nothing in terms of statute or rule. He pointed out that two-thirds of the 15 states require a third-party agency to draft the fiscal notes, and are not left to the sponsor. Of those 10 states: 7 use nonpartisan legislative staff; 2 employ a shared function between the legislative and executive branch, and that Kansas has an executive branch agency that drafts all fiscal notes. Director Milstead stated that of the groups assigned the task, the staff size varied from 5 to 23.

Director Milstead noted that all 15 states require impact on state revenues and expenditures, over two-thirds require impact to local units of government, and about half require long-term impacts, and not just for the first year of implementation. He added that some states provide for impacts to specific aspects of government; this occurred in at least 2 states where a fiscal note is required if it affects the populations of statewide prisons or county jails, as in South Dakota, where that situation was the only one that required a fiscal note. Director Milstead noted that some states that provide fiscal notes may point out technical or mechanical defects of the bill, and 3 of the states allow for indirect or dynamic fiscal impacts. He stated that Utah requires dynamic scoring as a footnote, which in the literature he reviewed could be problematic in that it's difficult and time consuming. A small handful of states initially implemented it, but have since backed away. He added that his review of the literature was not comprehensive.

Director Milstead stated that approximately 550 bills are introduced each year in Idaho. Of that 550, about 120 bills are appropriation bills, where the fiscal notes are produced by LSO's Budget & Policy Division. He stated that approximately 100 bills are agency bills, where the fiscal notes are the responsibility of the agency along with the Department of Financial Management. The fiscal notes of the remaining 300 bills are the responsibility of the sponsor. Director Milstead stated that about 350-400 bills are enacted each year. He stated that Idaho's process is governed by Joint Rule 18, which states that fiscal notes apply only to the bill as introduced, do not reflect amendments and are required for any bill that makes or revises an appropriation, requires a future appropriation, increases or decreases revenues of the state or any unit of local government or makes significant expenditure by such. He stated the note must contain an estimated amount of the appropriation expenditure or change, must identify a full year's impact, and must be reviewed for compliance by the committee assigned. A member could challenge the sufficiency of the fiscal note at any time prior to passage except upon introduction.

Director Milstead affirmed that instructions for developing fiscal notes are on the Legislature's website, which instructions have not been revised in several years. He suggested the Council recommend that LSO clarify the instructions. Director Milstead stated that the staff in other states ranges from 5 to 23, and they rely on executive branch agencies, tax commissions, and other staff and experts. Senator Davis asked what needed to be reworded, added, or eliminated in Joint Rule 18. Director Milstead recommended including a requirement to explain why a fiscal note is not ascertainable, and perhaps include a methodology of how the number was arrived at, and an explanation of the resources examined, which would provide a road map to retrace steps taken. Director Milstead stated that terms also need to be defined, such as "significant expenditures."

Representative Rusche asked how many of the existing fiscal notes are compliant with Joint Rule 18. Director Milstead responded he did not know but could find out. Chairman Hill asked Representative Rusche to clarify his request. Representative Rusche explained that fiscal notes indicating "no fiscal impact" would not comply with Joint Rule 18. Chairman Hill agreed, though he added that the task of gathering that data might not be ascertainable. Director Milstead suggested a quasi-checklist to include in the fiscal note: does the fiscal note show whether there is a hit to the general fund, and how it impacts locally. Representative Rusche clarified that it would not be a retrospective audit, but a tally going forward. Senator Davis asked how other states deal with sufficiency of fiscal notes. Director Milstead deferred to Mr. Hoskins, who responded that Utah analysts decide whether a fiscal note is required and then a checklist is sent to the agency. The analyst returns the fiscal note to the sponsor, who either approves or holds the fiscal notes. The legislative fiscal analyst has the discretion to determine whether there are grounds to challenge the note. He added that some states provide that the committee request a challenge, and some allow for a majority of the members in a particular chamber. Senator Davis noted that the presiding authority is not given the ability to determine the adequacy of the fiscal note. He said that most of the time spent in committee is on the merits of the legislation; only occasionally is the fiscal note questioned. Senator Davis asked if there were other solutions to handling challenges without hiring staff. He noted that some bills have been passed that reflect no fiscal impact but have been huge financial costs to the state. Senator Davis stated the fiscal note should not be longer than the statement of purpose. Director Milstead stated that the challenge aspect can be reviewed more closely and a brief memo will be prepared for the Council. Chairman Hill suggested defining the term "challenge" and the consequences or results of the challenge. Director Milstead responded that other states were routinely silent with regard to the consequences of a challenge. Chairman Hill also asked for a process or explanation of how to correct a fiscal note once it has passed one house. Representative King asked whether sponsors go to agencies for calculations, show their calculations, and document from whom they got that calculation, whether that would make a more robust fiscal note or would it slow the process down? Director Milstead agreed it would provide additional information and would add length to the fiscal note.

Senator Burgoyne questioned the scope of the problem. Director Milstead asked how to assess whether there was a problem and whether a checklist of requirements would address that issue. Senator Burgoyne agreed that was one aspect but was concerned that people are being inadvertently misled about the cost. Director Milstead stated that LSO's Budget & Policy Analysis Division already collects an enormous amount of information and data and is in a better position to review bills for the requirements of Joint Rule 18 rather than cost; however, it may not have the resources to do a cost review. Senator Burgoyne clarified that he is not looking for a number, but a sense of whether there is a problem. Chairman Hill suggested keeping perspective and asked if a cumbersome process was needed for 500 bills when only a dozen were of concern and were at least getting challenged in debate. Senator Davis proposed modifying Joint Rule 18 to include definitions, requiring a committee report when there was a separate vote on the adequacy in the fiscal note, and that a bill cannot leave the committee until there is a motion and a separate vote on the adequacy of the fiscal note, unless the bill is being sent to the 14th order of business. He suggested adding that if the motion passes on both, the floor would have confidence that it was reviewed carefully and the floor would have confidence of the adequacy of the fiscal note. If a committee member objects, the chair appoints a subcommittee of four: the proponent of the bill, the person objecting, and one person from each party. If there is a split, the chairman appoints another at his discretion, and the issue returns to the committee at the next hearing. Senator Davis stated that his suggestion would not slow the process but make it less likely to be used as a political tool. Representative King stated that relatively accurate fiscal notes are important because JFAC takes that number into consideration, and she suggested a more robust rule, with drafts of possible ideas for the next meeting. Senator Bayer stated the current process is a deliberative process and there are a lot of speed bumps for a proposal to navigate. He added he would not want to unwittingly have a legislative process be strangled by an executive fiscal note and suggested being cognizant of the separation of responsibility and power. Senator Stennett suggested deciding on a threshold before tearing the fiscal note apart. Representative Rusche agreed with Senator Davis and that the chairman of the committee could say, if no objection, that the fiscal note is deemed adequate then move on, but overtly have a second recorded review or have it recorded in the minutes. He also agreed that defining the term "significant" is difficult because what is significant today, might not be significant in ten years. Representative Rusche suggested finding out how big the issue is, how many are compliant, and then having a pathway on how to challenge, rather than an up or down vote in the committee, which is often less factual and more political. Senator Burgoyne stated he was not sure there was a problem, but agreed Joint Rule 18 needs work. He disagreed with voting twice on a bill, which will slow things down. Senator Burgoyne stated the process works, all questions were answered in committee and have been challenged, and it gets resolved. He added that there are not many bills getting to the floor where these issues have not been vetted either in committee or on the floor.

Senator Davis suggested that if three committee members want to challenge, then it could require extra steps. If a strong minority believes there is a problem, it's held for a day, then the chairman appoints a committee of three. He suggested the three report at the next meeting on what was done to determine the adequacy of that fiscal note and then the committee can decide on what to do. Senator Bair stated the chairmen already have the authority to hold and make a subcommittee. He stated that it is more of an issue of education for the committee chairman on how to handle those situations. Representative Rusche stated that sometimes a fiscal note is not clear and the only choice is to move to defeat the bill, which is extreme when the bill might be a reasonable policy, but the costs are unclear. He added that a bill defining how to contest and define the adequacy of a fiscal note is a good process. Representative Rusche asked if Director Milstead could develop a potential rule change to Joint Rule 18 to clarify issues, to show how a fiscal note may be contested, and include an example similar to Senator Davis' proposal. He also recommend keeping a checklist to track how many fiscal notes were obviously inadequate. Senator Davis agreed with amending Joint Rule 18, including requirement of a dollar amount instead of the term "substantial," and clarifying that challenge occurs in committee and debate occurs on the floor. Chairman Hill

recommended Director Milstead work with minority and majority leaders from both houses to come up with a suggestion for the next Council meeting.

Local Governing Entity Registry - Update & Quality Reviews

April Renfro, Division Manager, LSO - Audit Division presented an update on audit status. Ms. Renfro stated the 2015 Comprehensive Annual Financial Report (CAFR) is in process and an opinion will be issued before December 31, 2015, to stay in compliance with statute requiring the report be submitted to the Governor and Legislature by January 1, 2016. She stated that the 2015 Internal Control Report, which includes findings and recommendations, is required by auditing standards to be issued 60 days after issuing the CAFR opinion, which will be issued no later than late February. Ms. Renfro stated that audit staff are currently at agencies working on the 2015 Single Audit of federal assistance and the report will be issued at the end of March 2016. She stated the 2014 Internal Control Report was issued in February and the follow-up was issued recently, with six findings and recommendations, all of which remain open because most of the findings are related to controls over building the financial statements for the statewide report, and the agency changes or correction cannot be revisited until the start of the next fiscal year's audit. Ms. Renfro stated that the 2014 Single Audit Report was issued March 31, 2015, which included 27 findings, which is about the norm. She stated that the Single Audit Follow-up Report is being finalized and should be issued the following week. She noted that the Department of Health and Welfare takes the most time because they have the most findings and federal programs, and the findings are complex.

Ms. Renfro presented an update on the Local Government Registry. Ms. Renfro stated that legislation passed during the 2013 Legislative Session created three goals for the audit division to accomplish. First was to develop a functioning online registry and implement it by January 1, 2015, with a March 1, 2015 deadline. She stated LSO's IT staff worked hard to get the registry up and going, and Shelley Sheridan and James Combo worked closely with registrants. Ms. Renfro stated Idaho Code Section 67-450E requires the State Tax Commission and the county clerks to provide lists of known local governing entities within their counties, which are due December 1, 2015. She stated that all but one county has submitted their lists which will be used to compare to those who have registered. Ms. Renfro stated the final piece was to complete a list of registered entities and have it posted on the LSO's website, also required by Idaho Code Section 67-450E. She stated that entities were required to complete registration by March 1, 2015. The registration process was broken down into three parts, and was a challenge for entities to complete. Ms. Renfro noted the difficulty for smaller entities who did not have full-time staff, computers, and access to Internet. Those entities were encouraged to use local libraries or ask counties for help. She stated that guidance has also been given to determine whether they are a local governing entity and getting the information needed to determine whether an audit is necessary. Ms. Renfro stated the division is working to simplify the process going forward, identify who has not registered, obtain contact information for the entities, and communicate with counties on additions and deletions to the lists. She noted an issue with the synchronization of deadlines required by the legislation. She stated that originally the entities were to register by March 1, but information from the counties was not required to be received until December 1, which would make it difficult to determine compliance. Ms. Renfro stated the time between March 1 and December 1 would be used to get entities registered and into compliance. She stated the December 1 deadline would be used to see who is registered, who should have registered, then work on the compliance piece. Additionally, the deadline of September 1, for compliance notification to the Tax Commission and the counties, will not happen until September 1, 2016. Ms. Renfro stated a list of registered entities will be posted by January 1, 2016, and from there the division will communicate with the entities and start reviewing for compliance. She also noted difficulties in determining a completed registration and that entities would only partially complete the registration or not know what to upload.

Ms. Renfro stated that initially there were about 1,500 districts, of which 165 were school districts or charter schools and are excluded from the legislation. This left almost 1,400 identified

as special districts. She stated that currently almost 1,200 entities have completed some of the registration process and 985 have fully completed the process. The percentage of registered districts appears higher than it actually is because some of those registered were unknown entities. Ms. Renfro confirmed the next step will be to finish compiling data, comparing reports by county, and determining the number of entities in each audit reporting threshold. She stated that notification will be made to entities by September 1, 2016, and a report of noncompliance will also be provided to the Tax Commission and counties. She expects noncompliance to be low and noted that once it is reported, penalties will be enacted.

Ms. Renfro stated that 5-7 years ago, a desk review was completed on every local government that included federal assistance, which was part of an agreement with the Division of Financial Management that related to the 1984 Single Audit Act. She said the review was done using a federal checklist to look for adherence to auditing standards. Ms. Renfro stated that fatal errors were communicated to the auditor and non-fatal errors were communicated to the entity. She stated that desk reviews ended 5-7 years ago because they were time-consuming and the staff was not available; however, she has noted some concerning and questionable audit quality and there have been questions raised about what happens to the audit reports once they are submitted to LSO. Ms. Renfro stated that if audits are required, there needs to be quality in those audits, and there has been more emphasis placed on the fiscal health of the state and special districts. Ms. Renfro recommended desk reviews be reinstated with some modifications. She suggested pulling a sample of audits received and communicating errors to auditors or the entity. Ms. Renfro observed that many states utilize financial ratios and health indicators to identify areas of financial risk with the intent of reducing those unforeseen financial failures. She would like to develop a set of five indicators to review debt ratios, fund equity changes, and to identify warning indicators. She stated the risks would then be communicated to the entity. Ms. Renfro clarified that a full-scale audit would not be done and an opinion would not be issued, but concerns would be communicated to the entity. Representative Rusche asked if professional organizations or governing boards could help disseminate the concerns with audit quality. Ms. Renfro responded that the problem is the difference between business audits and governmental audits, and some entities may only have one auditor in their area. She stated there is a mechanism to report audit quality failures to the Board of Accountancy, which would also work with the entity to improve their audit quality. Chairman Hill suggested the sampling might show that audit quality is getting better due to federal requirements precipitating the increased number of required CPE hours. He added that he is glad to see that the sampling is being done.

Representative King asked whether fatal errors have been identified. Ms. Renfro responded that a full review has not been done yet. She stated that there have been fatal errors in the past. She stated that she has seen audits that do not meet standards, which is of concern because the entity management might not be getting the appropriate information to make decisions. She added that, as was stated before, if the entity knows someone is watching, the audit quality might improve. Ms. Renfro stated the focus will be on the smaller districts.

Senator Stennett asked how the smaller entities who do not have the ability to register are penalized once they are noncompliant. Ms. Renfro responded there are two levels of compliance. She stated entities with expenditures under \$100,000 are only required to register. She stated that entities with expenditures between \$100,000-250,000 are required to have a biennial audit and entities with expenditures over \$250,000 are required to have an annual audit. She stated those entities with audit requirements are compliant if they at least communicate with LSO and identify the auditor they are contracting with and provide an expected time the audit would be submitted. She stated that those entities not in compliance are those who do not communicate with LSO at all.

Chairman Hill asked if the Council needs to approve her proceeding with the review and would there be a fiscal impact. Ms. Renfro responded that the audit quality does not need approval by the Council because it's been done in the past. Chairman Hill asked if additional staff would be needed.

Ms. Renfro stated that by selecting a small sample, it could be done in the downtime and used as training for staff. Representative Jordan stated her appreciation for Ms. Renfro's diligence and asked where the findings could be found online. Ms. Renfro replied that all reports are on LSO's website under local governments, which is where the Special Report and list of entities are located. She stated that in the future, the actual audit reports will be available on the website as well.

OPE Update

Rakesh Mohan, Director, Office of Performance Evaluations (OPE) stated that before his presentation he would like to share that his first grandchild was born about a month ago and that on Wednesday he will be talking to the Cameroon Parliament about how the evaluation process works in a political and legislative environment, what model is used in Idaho, and how to sustain it. Director Mohan stated he will review the projects assigned by the 2015 Legislative Session that include: Public Health District Financing, Idaho Behavioral Health Program, and Administrative Hearing Officers. He added that OPE will then issue six follow-up reports between December and March. Director Mohan stated that all projects are big and complex in their own ways and have policy implications for the Legislature to consider.

Director Mohan stated that the Public Health District Financing will be presented to the Joint Legislative Oversight Committee on December 16, 2015, along with follow-up reports on state employee compensation and the contract management. He stated there are seven public health districts that are not state agencies but do receive state general funds totaling about \$8.5 million. He stated the money is provided in a lump sum and up to the board members to distribute. Director Mohan stated that major changes were made in 1993, which worked well until re-sampling in 2014, which caused concerns with legislators and stakeholders. He stated that OPE will work closely with the health districts and with how the funding and distribution formulas work. He stated recommendations will be made to the Legislature and the health districts.

Director Mohan stated that the Idaho Behavioral Health Program (Optum) provides managed care for Medicaid outpatient behavioral health services. He calculated the state's contract with Optum at about \$300 million for three years. Director Mohan stated that legislators voiced concerns about how well Optum was working and concluded the old program was better. He stated that all seven health districts have been visited, and discussions have been held with stakeholders. Director Mohan stated a report will be issued by January 18, 2016. He stated the report will include how contract managements are designed; how audits are issued; how the managed care program is working; and will identify barriers and problems. Director Mohan stated that privacy issues are always a concern. He added that Optum and the Department of Health and Welfare have been very helpful in providing data.

Senator Davis asked how OPE deals with audit compliance and maintains objectivity. Director Mohan responded that he has been with OPE for thirteen years and integrity of the office or his action as Director has never been in question in terms of taking sides or favoring one over the other. He stated that OPE also follows the Government Auditing Standards promulgated by the U.S. Comptroller General. He added that he had served eight years on the council for auditing standards. Director Mohan stated that he feels that auditing standards are not sufficient to do quality work and to be responsive to dynamic legislator information needs. He stated that OPE's work is guided by the American Evaluation Association standards and the Joint Committee on Standards for Educational Evaluation. Director Mohan stated that legislators know that he would not just give them what they want and would respectfully listen to everyone and see things from their side. He stated that the standards are about not taking sides, but about being independent, nonpartisan, and disclosing all conflicts of interest at any time. He added that there are rigorous internal quality controls in place to see if the work is biased, and in observing this, a reputable external consultant is hired for every evaluation to ensure OPE is objective, unbiased, and independent.

Director Mohan stated that the Administrative Hearing Officers report will be issued in the first part of February 2016. He stated this project is complex because many agencies conduct administrative hearings. He stated that sometimes the hearing officers are employees of the agency or are hired on contract. Director Mohan stated there are concerns about conflicts of interest, given that an agency can assign the administrative hearing officer in a case for a complaint against the agency. He stated OPE was asked to see what the best practices are, how to improve the process, and whether it makes sense. He stated about 50 agencies have been visited, as well as officials, hearing officers, and attorneys. Director Mohan stated that OPE is also reviewing some appeals cases. Director Mohan stated that the additional handout, OPE's performance highlight, was presented for the Council's review. Representative Jordan asked if there were recommendations in the performance highlight. Director Mohan stated that there were recommendations in all six reports for both the Legislature and agencies involved. He stated the reports are completed and on the Legislature's website.

Speaker Bedke appreciated the Council's attention, as it was a full day, and advised all to drive home safely.

Chairman Hill agreed it was a full day and stated that good subjects were covered.

Representative Rusche moved to adjourn, seconded by Senator Stennett, and the motion passed unanimously by voice vote. The Council adjourned at 4:52 p.m.