

## Legislative News

by Senior Judge Barry Wood

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### **Legislative News, Week ending February 28, 2014 [Week 8]**

[HB 509](#), the Court's technology fund bill, passed unanimously through the House Judiciary & Rules Committee on Thursday. Testifying for the bill on behalf of the Courts were Patti Tobias, Former Chief Justice Linda Trout, Senior District Judge Barry Wood, Elizabeth Criner on behalf of the J.R. Simplot Company, Sara Thomas as Chair of the Criminal Justice Commission, and Robert Wetherell, President of the Idaho State Bar. Mr. Wetherell also distributed [a letter to each legislator in both houses](#), and his [article which will appear in this month's Advocate](#).

District Judge Tom Ryan's and Kathy Simpson's appointments to the Idaho Judicial Council were approved by the Senate Judiciary & Rules Committee on Monday. The full Senate confirmed these appointments Friday morning, with Senator Lakey presenting Judge Ryan's nomination and Senator Davis presenting Kathy Simpson's.

The Justice Reinvestment Bill, [SB 1357](#) was before the Senate Judiciary & Rules Committee on Monday. Following testimony, the Committee voted unanimously to send the bill to the floor with a "Do Pass" vote. On Thursday, the measure passed the Senate unanimously on a vote of 35-0. It now moves to the House where it will likely be up for a hearing before the House Judiciary & Rules Committee sometime next week.

JFAC is well into the agency budget setting process. Certain JFAC members are assigned to work on specific budgets and then make the recommendations to the whole committee. This budget setting process follows the agency presentations made during the first month or so of the session. The budget setting process will last several weeks, and once JFAC has completed this work, adjournment is likely close. The Court's budget is now scheduled to be heard on Wednesday, March 5.

The House voted 47-20 to raise the rate the state pays to the counties to house state inmates in county jails. [HB 456](#) would raise the rate from \$40 a day to \$50 at a cost of about \$2.19 million to the state. The proposal now moves over to the Senate, where it has been assigned to the Senate Judiciary & Rules for hearing, and will likely be up for hearing next week.

The **Legislative "Bill Tracking"** feature is up and going. The link and instructions are "parked" at the top of this Legislative News, for your convenience.

As reported last week, Leadership in both chambers continues to express the goal of March 21 for adjournment. To achieve this goal, the Senate has continued its late-afternoon sessions and has stayed on the floor as late as 6 p.m. The House has begun placing language on its Committee agendas with contingency start times, such as "1:30 or upon adjournment" (from the floor). This signals that the House is also going to be starting afternoon sessions.

The Idaho Education Network (IEN) continues to be the focus of many concerns. The IEN is a 5 to 15 year sole-source contract to set up Wi-Fi networks in every high school in Idaho. Significant questions have been raised about the contract for the project, the equipment being installed, and the funding challenges associated with it.

A measure supported by the Governor in his State of the State message on January 6 and which is designed to place 3 behavioral health community crisis centers around the state has cleared the Senate. The intent is to relieve some of the pressures on jails and emergency rooms for people suffering from mental health crises. The bill is [SB 1352](#) and now moves over to the House.

The Senate has also passed a proposal to let the Idaho Department of Transportation increase the speed limits on some rural stretches of interstate to 80 mph and on some state highways to 70 mph. Such changes must first be supported by engineering studies and the ITD Board would next have to find those changes to be in the public interest. [SB 1284a](#) now moves over to the House.

Yet another tax cutting proposal has emerged this week. The Senate Local Government and Taxation Committee may expand the 2013 \$20 million business personal property tax break expansion by passing legislation to phase out the remaining tax on business equipment over the next decade.

Legislative Leadership announced on Monday at the Idaho Press Club gathering that they are looking to establish an interim committee to study options for Medicaid expansion in Idaho. Medicaid expansion in Idaho could have direct application to the courts by providing additional services to a significant portion of the Court's criminal justice population.

Gun issues have captured a significant share of the legislative agenda so far this year. First, a good deal of time and emotion has been spent on the "guns-on-campus" legislation in the Senate, culminating in passage through the Senate on a 25-10 vote, with 3 north Idaho Republican Senators joining the 7 Democrat Senators in voting "NO." During the floor debate, the fiscal note on the bill was also challenged. The proposal has now moved to the House side, and is before the House State Affairs Committee. As of this writing, the State Affairs Committee will resume hearing [SB 1254](#) in a Friday afternoon session.

A second gun related bill is [SB 1332](#) which passed the Senate on Wednesday by a vote of 34-0. This measure would penalize officials who knowingly and willfully order Idaho law enforcement officers to seize guns or ammunition under a federal order or law, in violation of the Idaho Constitution.

A third gun bill is the concealed weapons permit legislation which is designed to remove state lawmaker's and other elected officials special exemption from having to comply with Idaho's concealed weapons permit statute. [HB 514](#) passed the House Thursday on a vote of 62-7.

Two controversial proposals collectively referred to as "religious freedom bills" have been withdrawn by their sponsor, Rep. Lynn Luker, R-Boise. [HB 427](#) was designed to protect those who cite religion as a reason to deny service to others to whom they object. The second was [HB 426](#) which would have prevented the state from revoking or suspending occupational licenses for violations that the license-holder commits for religious reasons.

The \$2 million wolf control fund proposal cleared the House Resources Committee on a vote of 14-4, and the House floor by a vote of 49-16. [HB 470](#) now moves to the Senate.

JFAC also entertained a budget line item for the Legislature of a \$1 million transfer from the general fund to the Legislature's "Constitutional Defense Fund."

The Idaho Senate has passed [SB 1271](#) to declare the giant salamander to be the Official State of Idaho Amphibian.

The so-called "Ag-Gag" bill regarding surreptitious videotaping of agricultural operations has drawn large crowds to the capital. A 3 ½ hour hearing before the House Agriculture Committee ended in a 13-1 vote to move the measure on to the floor of the House. The House approved the [SB 1337](#) on a vote of 56-14.

On March 4, 1863, President Abraham Lincoln signed a congressional act creating the Idaho Territory. [HB 378](#) has now passed both houses which establishes "Idaho Day" each March 4. It is not a paid holiday or a close of government offices, but is designed to highlight some of Idaho's history and heritage.

Protests over the so-called "Add the Words" movement continued again this week. A large bus was parked outside the Capitol on Thursday afternoon to accommodate the arrestees who were marched out of the building by the Idaho State Police. Two Senate Committee hearings were disrupted by the protests.

A proposed Constitutional Amendment has been introduced by Senator Vick of Dalton Gardens. The measure would allow lawmakers to convene at the end of a legislative session upon the joint request of the Speaker of the House and the President Pro Tempore to consider bills the Governor vetoed following adjournment. Under existing law, only the Governor can call a special session of the Legislature. The proposal is [SJR 106](#).

As reported last week, upon the direction of the respective leadership teams, Majority Leaders Senator Davis and Representative Moyle are considering potential compensation measures for the state-wide elected officials (Governor, Lieutenant Governor, Secretary of State, State Controller, Attorney General, State Treasurer and State Superintendent of Public Instruction) which occurs by law every four years. Senator Davis and Representative Moyle are also making recommendations to leadership about judicial salaries. Following these deliberations, the Court is likely to introduce legislation aimed at improving judicial recruitment by increasing salaries for judges.

"On the Radar" is the Court's FY 2015 Budget before JFAC on March 5; and the Court's Technology Fund legislation [HB 509](#) will be up before the House for a floor vote sometime next week. As always, if you have any thoughts, suggestions, or questions, please send them back this way. Thanks for reading.

## **Legislative News, Week ending February 21, 2014 [Week 7]**

Chief Justice Roger Burdick will be on tonight's "Idaho Reports" program on Idaho Public Television. The show airs at 8 pm MST and is scheduled to re-air Sunday at 10:30 am MST. The same program plays on Boise State Public Radio on Sunday at 7 pm MST.

Now that the Legislative session is at about the estimated half-way point in terms of elapsed days, the Legislative "Bill Tracking" feature is up and going. *See the link at the top of this page.* Along these same lines, Leadership in both chambers continues to express the goal of March 21 for adjournment. To achieve this goal, the Senate has started its late-afternoon sessions and has stayed on the floor as late as 6 pm.

Representative Eric Anderson, R-Priest Lake, Legislative District #1, has announced that he will not seek re-election. Anderson currently chairs the House Ways and Means Committee and has been very supportive of the Courts.

A new tax proposal, being touted by Representative Moyle, House Majority Leader, would cut both Idaho's corporate and individual income tax rates, in all brackets, by a tenth of a percent a year for the next six years, from the current 7.4% ultimately down to 6.8%.

Guns have captured their share of the legislative agenda so far this year. First, a good deal of time and emotion was spent on the "guns-on-campus" legislation in the Senate, culminating in passage through the Senate on a 25-10 vote, with 3 north Idaho Republican Senators joining the 7 Democrat Senators in voting "NO." During the floor debate, the fiscal note on the bill was also challenged. The proposal now moves to the House side, and the Bill is [SB 1254](#). A second gun related bill is [SB 1332](#) which passed the Senate on Wednesday by a vote of 34-0. This measure would penalize officials who knowingly and willfully order Idaho law enforcement officers to seize guns or ammunition under a federal order or law, in violation of the Idaho Constitution. A third measure deals with concealed weapons, and is identified as [HB 472](#).

Two controversial bills, collectively referred to as "religious freedom bills," have been withdrawn by their sponsor, Rep. Lynn Luker, R-Boise. [HB 427](#) was designed to protect those who cite religion as a reason to deny service to others to whom they object. The second was [HB 426](#) which would have prevented the state from revoking or suspending occupational licenses for violations that the license-holder commits for religious reasons.

The \$2 million wolf control fund proposal cleared the House Resources Committee on a vote of 14-4. It now moves to the House floor for consideration.

The so-called "Ag-Gag" bill regarding surreptitious videotaping of agricultural operations has drawn large crowds to the capitol. A 3½ hour hearing before the House Agriculture Committee ended in a 13-1 vote to move the measure on to the floor of the House.

Protests over the so-called "Add the Words" movement continued throughout the week. About 25 protesters who blocked entry to the Senate Chambers on Thursday were arrested late afternoon and taken to jail; with 7 others being arrested earlier in the day. It is being reported that there was also one protester charged with battery.

A proposed Constitutional Amendment has been introduced by Senator Vick of Dalton Gardens. The measure would allow lawmakers to convene at the end of a legislative session upon the joint request of the Speaker of the House and the President Pro Tempore to consider bills the Governor vetoed following adjournment. Under existing law, only the Governor can call a special session of the Legislature. The proposal is [SJR 106](#).

The Court's two defects in the law bills have now passed both chambers and are on to enrollment, and will then be sent to the Governor's Office. You may recall that one related to proceedings in the Magistrate Division and the judge's authority to charge the jury, and the other was to correct code references in the Child Protection Act.

On the Justice Reinvestment initiative, a Felony Sentencing Committee conference call was held on Friday afternoon, February 14 to review the many specific comments received from judges and to make decisions about which potential amendments to [SB 1331](#) were most critical; and hopefully reach substantial consensus across the state. Following that meeting, Steve Bywater sent out a communication to all district judges. Work continued over the weekend including discussions with the co-chairs of the respective Judiciary and Rules Committees, prosecutors, IDOC, and others. On Monday, another 7 am meeting of the working group was held. On Wednesday, a new Justice Reinvestment bill was printed. The new bill is [SB 1357](#) and replaces SB 1331. The new version contains suggestions and revisions from both the Felony Sentencing Committee, as well as other district judges from around the state. The bill is likely to be before the Senate Judiciary Committee on February 24 for a full hearing. [Click here](#) for a handout that was presented at the print hearing entitled "Estimated Impact of Justice Reinvestment Following Modification of Original Bill." All judges will be kept apprised of new developments.

Upon the direction of the respective leadership teams, Majority Leaders Senator Davis and Representative Moyle are considering potential compensation measures for the state-wide elected officials (Governor, Lieutenant Governor, Secretary of State, State Controller, Attorney General, State Treasurer and State Superintendent of Public Instruction) which occurs by law every four years. Senator Davis and Representative Moyle are also making recommendations to leadership about judicial salaries. Following these deliberations, the Court is likely to introduce legislation aimed at improving judicial recruitment by increasing salaries for judges.

JFAC has not yet published a budget number for FY 2015. This number, when established, translates to the total general fund dollars JFAC has determined will likely be available for expenditure in FY 2015 (July 1, 2014 – June 30, 2015) and will set budgets accordingly, not to exceed that total amount. That actual budget setting process began this week with JFAC setting some budgets which primarily rely on dedicated funds.

“On the Radar” is the Justice Reinvestment legislation, [SB 1357](#), Senate Judiciary Committee hearing on February 24, as discussed above; the Court’s FY 2015 Budget may be before JFAC as early as February 26; and the Court’s Technology Fund legislation [HB509](#) will be up for a committee hearing in the House Judiciary and Rules Committee on February 27.

As always, if you have any thoughts, suggestions, or questions, please send them back this way. Thanks for reading.

### **Legislative News, Week ending February 14, 2014 [Week 6]**

In “legislative speak,” RS is shorthand for ROUTING SLIP. More specifically, each piece of proposed legislation is assigned an RS number for tracking purposes. An RS is a piece of legislation that has been processed, proofread, and formatted by the Research and Legislation area of the Legislative Services Office. It is then delivered to its sponsor for presentation to a committee and formal introduction into the legislative process. An RS is not a public document until it has been assigned a bill number by either the House or Senate and actually taken up for discussion in committee.

As reported last week, the proposed legislation resulting from the Council of State Government’s Justice Reinvestment initiative was up for a print hearing Friday afternoon, February 7 before the Senate Judiciary and Rules Committee. The print hearing on the RS lasted 2 minutes and 5 seconds, ending with a unanimous vote to send to print. The bill is being touted as the first step in Idaho’s Justice Reinvestment project: a data-driven approach to improve public safety, reduce both the time inmates spend in jail and the rates of recidivism, and reduce the overall amount of money the state spends on criminal justice by reinvesting some of the savings to improve the correction outcomes for offenders. The bill is now printed as [SB 1331](#).

Moving to the week of February 10, activities surrounding the Justice Reinvestment proposal were very fluid and included: the CSG Working Group meeting on Tuesday at noon; a 7 a.m. meeting on Wednesday in the House Majority Caucus room in the Capital; a Senate Judiciary and Rules Committee meeting on Wednesday at which public testimony was taken; followed by additional 7 a.m. meetings on both Thursday and Friday. There is a Felony Sentencing Committee conference call scheduled this Friday afternoon at 3 to review the many specific comments received by judges and to make decisions about which potential amendments are most critical; and hopefully reach substantial consensus across the state. All judges will be kept apprised of developments.

Still on the Justice Reinvestment front, but moving into next week, there is another 7 a.m. meeting scheduled on Monday to discuss final comments. There will likely be a new RS with a print hearing before the Senate Judiciary Committee on Wednesday, February 19. As of this writing, the hearing before the Senate Judiciary Committee for a vote on the new bill will likely be February 24.

As time allows, Judges are encouraged to follow legislative proceedings in real time and can do so remotely on their state supplied computers at <http://www.idahoptv.org/insession/>. Some, if not all hearings, are covered with both audio and video. Additionally, for many years the Administrative Conference and the Supreme Court has had in place a written protocol for building and maintaining useful and productive legislative relations. [Click here for the protocol](#) which was most recently updated in 2011.

Another economic concern arose when Idaho’s latest monthly general fund revenue report was published at the close of business on Friday, February 7. Specifically, the January 2014 state tax revenues came in \$25.9 million or 8.7% below the revised forecast, for a year-to-date shortfall of 1.4%; however, the year-to-date receipts are still 4.1 % higher than the same period in fiscal 2013. The “down-draft” comes in part, however, from the fact that this was the worst monthly revenue performance since April 2010, when actual collections came in about \$56 million below projections. The January shortfall, coupled with other economic challenges such as the education Wi-Fi issue, may well affect legislative budget negotiations.

Representative Darrell Bolz, R-Caldwell and vice-chair of JFAC announced he will not seek re-election. Representative Bolz is finishing his 7<sup>th</sup> term and sits on both JFAC and Agriculture committees. He is an emeritus professor for the University of Idaho Extension program.

JFAC also heard that residential broadband in Idaho continues to lag behind the national average, resulting in Idaho's 143 public libraries being the only source of free internet access in 70% of these library communities. The result is more Idahoans are going to these libraries to access the internet. However, currently no state funds go into providing the internet service at these libraries.

"Politics for Lunch" this Tuesday at the Andrus Center in BoDo featured former state chief economist Mike Ferguson. Since leaving his post at the state, Ferguson has become the director of the Idaho Center for Fiscal Policy.

The Court introduced its technology funding bill Thursday in a print hearing before House State Affairs. Patti Tobias presented the RS for print. The Committee ultimately voted to print the bill which is now designated as [HB509](#).

JFAC voted on Wednesday to seek a 2% CEC for state employees of which 1% is recommended to be permanent and 1% is intended to be distributed on a "one-time" merit basis.

Majority Leaders Senator Davis and Representative Moyle are considering potential compensation measures for the statewide elected officials (Governor, Lieutenant Governor, Secretary of State, State Controller, Attorney General, State Treasurer and State Superintendent of Public Instruction), which occurs by law every four years. As part of this process, the Judiciary is being included in this discussion. Following these deliberations, the Court is likely to introduce legislation aimed at improving judicial recruitment by increasing salaries for judges.

JFAC set its budget number on Wednesday. This number translates to the total dollars JFAC has determined will likely be available for expenditure in FY 2015 (July 1, 2014 – June 30, 2015) and will set budgets accordingly, not to exceed that total amount. That actual budget setting process will begin next week.

JFAC also scheduled public hearings for February 14 where general members of the public will be able to address the Committee about their views on how the State should be spending its money in FY2015.

A proposed constitutional amendment to secure the Legislature's ability to review all executive branch agency rules has been introduced as [HJR2](#).

The Joint Legislative Oversight Committee convened on Thursday to hear the Office of Performance Evaluation's (OPE) report on "[Confinement of Juvenile Offenders](#)". A great deal of work went into this report, and the Court's letter of support was included – see pages 74-75 of the report.

Other news around the Capitol on Thursday was word that a third federal district judge is being sought for Idaho by Senators Jim Risch and Mike Crapo. If approved, this would be the first addition to Idaho's federal district bench in 60 years.

At least two proposals were discussed this week regarding road repairs. One was a proposal by a truckers' association to raise gasoline prices 25 cents per gallon; another was to shift sales tax funds to road work by tapping 2% of these revenues starting in 2016 and shifting them to road maintenance and construction.

"On the Radar" are continued discussions on the Justice Reinvestment legislation as discussed above; numerous committee presentations; and the Court's Technology legislation will likely be up for a committee hearing in the House Judiciary, Rules, and Administration Committee.

As always, if you have any thoughts, suggestions, or questions, please send them back this way. Thanks for reading.

### **Legislative News, Week ending February 7, 2014 [Week 5]**

The annual Elected Clerks meeting with the Administrative District Judges was held on Monday morning, February 3. Agenda items included a roundtable discussion on matters of interest to the respective districts; a discussion of the Court's Legislative and Budget Priorities for FY15; a Court Technology update; and a segment on developing effective relationships.

The February Administrative Conference was held on Monday afternoon and Tuesday morning. Two new judges participating were Judge John Butler, the newly elected president of the District Judges Association, and Judge Darren Simpson, who will begin serving as the new Administrative District Judge for the Seventh Judicial District on April 1<sup>st</sup>, replacing Judge Jon Shindurling. Monday morning, 43 people were arrested in a protest which blocked entrances to the Senate Chamber. The protesters wore black T-Shirts with the words "Add the Words" and stood with their hands over their mouths. The 43 were subsequently cited with trespassing.

The First Annual Senator Denton Darrington Lecture on Law and Government was held February 3, 2014 at 4 p.m. in the Lincoln Auditorium in the Capitol. The featured speaker was J. Clifford Wallace, Senior Judge, Chief Judge Emeritus, United States Court

of Appeals for the Ninth Circuit, who delivered an informative lecture involving the very different perspectives of the Anti-Federalist and the Federalist points of view in the adoption of the U.S. Constitution during the 1780's. While the Federalists prevailed, Judge Wallace argues that some of the criticisms set forth by the Anti-Federalists of the time remain relevant today. This annual lecture is sponsored by the University of Idaho College of Law, the Idaho Supreme Court, and the Idaho State Bar and Law Foundation. The series is projected to address a wide range of topics related to the improved administration of the justice system and feature well respected national, state, and regional speakers to address Idaho citizens, students, and officials from all three branches of government.

A Joint Senate Resources & Environment Committee and House Resources and Conservation Committee meeting was held on Wednesday afternoon to hear Justice Jim Jones give a presentation on the "Swan Falls Agreement." Justice Jim Jones was the Idaho Attorney General during this era, and this agreement was a legal precursor to the initiation of the Snake River Basin Adjudication.

As reported last week, two developments promptly became topics of significant discussion throughout the Capitol relating to potential budget matters as a result of either unexpected obligations, or unfavorable impacts on the State's revenues going forward. The first was disclosure of a \$14.5 million shortfall to the Idaho Education Network due to withheld federal funds; which is now compounded by a question of whether other funds already advanced to the State may also have to be repaid. The second was the announcement of a water curtailment order by IDWR in the Magic Valley, potentially affecting 2300 water users and shutting off irrigation water to 157,000 acres; however, the snowfall which came to the State late in the week has had an observable impact on the faces of many in the Capitol. Now a third concern has emerged in the form of a legislative audit regarding the Idaho State Treasurer's office, asserting the state's taxpayers have lost more than \$10 million dollars through certain transfers.

Proposed legislation which has generated significant interest and discussion is [SB 1254](#). If enacted, this would pre-empt the authority of colleges and universities to regulate guns on their campuses. All eight of Idaho's public college presidents came out "emphatically" against the proposal, and were joined by members of the state Board of Education.

And speaking of guns, a proposal was before the House State Affairs on Thursday for a print hearing which would eliminate the existing statutory exemption granted to all elected officials to carry a concealed weapon without a valid permit. This measure, should it become law, would hold elected officials to the same standard as ordinary citizens.

The House Judiciary, Rules, and Administration Committee experienced a record day on Wednesday with 16 proposals before it for print hearings. All received approval to be printed. A number of these proposals will be circulated to the legislative review teams for comment once they are assigned bill numbers.

One proposal which failed to get printed was RS22392 before Senate State Affairs Committee relating to Raffles and Duck Races, which sought to remove prize maximums for these raffles and races. The wording is being re-worked.

Patti Tobias presented the Court's FY15 budget before JFAC on Thursday, February 6, 2014. The Court's new technology system with 24/7 electronic filing was touted in the press. We all owe Patti an extraordinary "Thank You!" for a job well done – **this was her 21<sup>st</sup> budget presentation to JFAC!!!!**

Election season is coming soon with the filing period beginning March 3 and ending March 14, 2014. Around the Capitol, Attorney General Wasden has announced he will seek re-election as has State Treasurer Ron Crane. The field to replace retiring Secretary of State Ben Yursa is growing, with the announcement this week of Representative Holli Woodings, D-Boise, announcing her candidacy. Four Republicans have already announced they are running, including three with legislative experience. One is Representative Lawrence Denny, former Speaker of the House; former Senator Evan Frasure of Pocatello; former Senator Mitch Toryanski of Boise; and chief deputy Ada County Clerk Phil McGrane. Representative Frank Henderson, who is in his fifth term and 91 years of age, has announced he will not seek a sixth term in the upcoming elections. Henderson is a former Kootenai County Commissioner and Mayor of Post Falls. Representative Henderson is the Chair of the House Business Committee. [House Concurrent Resolution 38](#) has been printed to commemorate 2014 as the 60<sup>th</sup> anniversary of the addition of the phrase "Under God" to the Pledge of Allegiance, added through congressional action at the request of President Dwight D. Eisenhower in 1954.

On Thursday, the Idaho Trucking Association introduced legislation that would increase Idaho's gasoline tax by 6 cents per gallon (from 25 to 31 cents), at the rate of 2 cents per year.

The proposed legislation resulting from the Council of State Government's Justice Reinvestment Initiative is up for a print hearing Friday afternoon before The Senate Judiciary and Rules Committee.

"On the Radar" will be numerous committee presentations now that much of the proposed legislation has been printed. JFAC has also scheduled public hearings on February 14 where general members of the public will be able to address the Committee.

As always, if you have any thoughts, suggestions, or questions, please send them back this way. Thanks for reading.

## **Week ending January 31, 2014 [Week #4]**

Michael Henderson presented the Court's two "Defects in the Law" bills on Monday before the Senate Judiciary and Rules Committee, namely SB 1214 dealing with proceedings in the Magistrate's division to remove archaic language and SB 1215 correcting code references to the Child Protective Act. By Thursday, the two bills had made their way to the Third Reading Calendar of the Senate.

A Joint Senate Education Committee and House Education Committee meeting was held on Monday afternoon to conduct a Public "Listening Session". This session was in response to the Governor's Task Force on Education which met over the summer. Only three people signed up to testify.

While no formal legislation has been introduced to date, there are multiple tax proposals being floated and are receiving a good deal of "air time." The most recent is a proposal by the association of local chambers of commerce from around the state to lower Idaho's income tax rates in each tax bracket by 0.105% per year for 5 years. An earlier proposal suggested disallowing the grocery sales tax credit from higher income earners and applying that money to lower the state income tax rate; which proposal has now been withdrawn. There are also conversations related to further addressing the business personal property tax which was partially addressed last legislative session.

Judge Eric Wildman made the SRBA presentation before JFAC on January 28. This was in conjunction with Director Spackman of IDWR.

Wednesday was "Pie Day at the Capitol," with approximately 150 home-baked pies on the 4<sup>th</sup> floor rotunda of the capital. The event was sponsored by the Idaho Coalition of Home educators and has become an annual event.

A couple of bills which have been introduced that have nothing to do with the Judiciary but are "kind of interesting" to mention and which would not otherwise find their way into the [Bills of Interest](#) on the Court's website are:

- HB 430 would provide that annually the week prior to the Memorial Day Weekend shall be Idaho Noxious and Invasive Weed Awareness Week;
- SB 1257 before the Senate Education Committee provides in part that any school bus which is sold and is no longer to be used to transport pupils must be repainted before it is used on the highways to a color other than "national school bus glossy yellow, federal standard 595a, color number 13432";
- HB 368 would ban lawmakers from holding any other elected position; and a desire to designate the Idaho Giant Salamander to be the State Amphibian has returned for consideration again this year.

For any of our readers who find themselves with a little extra time on their hands, SB 1258 consisting of 33 pages of Codifier's Corrections to numerous provision of the Idaho Code has been introduced by the Senate State Affairs Committee. Proof readers are welcome.

Two developments on Thursday promptly became topics of significant discussion in the Capitol relating to budget matters. The first was disclosure of a \$14.5 million dollar shortfall to the Idaho Education Network due to withheld federal funds. The second was the announcement of a water curtailment order by IDWR in the Magic Valley potentially affecting 2300 water users and shutting off irrigation water to 157,000 acres.

This week's "Politics for Lunch" held at the Andrus Center featured Senate Minority Leader Michelle Stennett; and on February 4 will be House Minority Leader John Rusche.

"On the Radar" is the Supreme Court's quarterly Administrative Conference on February 3 and 4; Patti Tobias will present the Court's FY15 budget before JFAC on February 6, 2014. JFAC has also scheduled public hearings on February 14 where general members of the public will be able to address the Committee.

The First annual Senator Denton Darrington lecture on Law and Government is scheduled for February 3, 2014 at 4 p.m. in the Lincoln Auditorium in the Capitol. The featured speaker is J. Clifford Wallace, Senior Judge, Chief Judge Emeritus, United States Court of Appeals for the Ninth Circuit. This annual lecture is sponsored by the University of Idaho College of Law, the Idaho Supreme Court and the Idaho State Bar and Law Foundation. The annual lecture will address a wide range of topics related to the improved administration of the justice system and feature well respected national, state and regional speakers to address Idaho citizens, students, and officials from all there branches of government.

As always, if you have any thoughts, suggestions, or questions, please send them back this way. Thanks for reading.

## **Week ending January 24, 2014 [Week #3]**

Monday was a holiday for many, but not the Idaho Legislature, which was in session. Various committees continued the IDAPA Rules review process. Additionally, hundreds of people filled the Capitol rotunda for the state's official Martin Luther King Jr./Idaho Human Rights Day ceremony.

[House Joint Resolution No. 1 \(HJR 1\)](#) has been introduced proposing an amendment to Article III of the Constitution of the State of Idaho, by adding a new Section 29 relating to legislative delegation of rulemaking authority, with the legislature retaining authority to approve or reject administrative rules issued by the executive branch agencies. If passed by both chambers, the question will be submitted to the electors at the next general election.

As reported last week, Representative Linden Bateman has proposed legislation to name March 4 "Idaho Day" which would mark the anniversary of President Abraham Lincoln signing the Idaho Territory into Law in 1863. This is now printed as [HB 378](#). Chief Justice Burdick delivered the State of the Judiciary Speech to the Senate on Tuesday January 21 at 11:15 a.m. MST; followed shortly thereafter to the House. [Click here](#) to access the full text of the speech.

This week's "Politics for Lunch" held at the Andrus Center featured House Speaker Scott Bedke; January 28 will feature Senate Minority Leader Michelle Stennett; and on February 4 will be House Minority Leader John Rusche.

The District Judges were in town for their annual seminar beginning Wednesday, January 22 and extending through Friday the 24<sup>th</sup>. The attendees, who included several Senior District Judges, enjoyed a full agenda. One topic of high interest is [the Report](#) which was a product of The Council of State Governments Justice Center which worked with the Criminal Justice Reinvestment Interim Committee and many stakeholders, including the Courts. ([SCR 128 / 2013](#)). From this analysis and policy framework, legislation will likely be introduced this legislative session in response to some of the identified concerns. Because many of these involve felony sentencing and probation, a good deal of time was spent by the District Judges on discussions involving possible statutory amendments.

On January 23, the District Judges also heard a short presentation from the Co-Chairs of the Criminal Justice Reinvestment Interim Committee, Senator Patti Anne Lodge and Representative Rich Wills, who are also the respective Chairs of the germane Judiciary and Rules Committees. A well-attended, informal dinner with the House and Senate Judiciary and Rules Committees, Leadership, and JFAC was held. There were 44 legislators in attendance together with the District Judges, Senior District Judges, and Supreme Court Justices.

The Administrative District Judges presented to the House Judiciary and Rules Committee on Thursday January 23, with the District Judges in attendance. Judge Stegner discussed public defense; Judge Dunn discussed Advancing Justice, including the development of district wide caseload management plans; Judge Ryan discussed Judicial Recruitment challenges; Judge Hansen discussed problem solving courts with an emphasis on Veteran's Treatment Courts; Judge Bevan discussed Problem Solving Courts with an emphasis on Mental Health Courts; Judge Haynes discussed the Justice Reinvestment Report; and Judge Shindurling discussed the Justice Reinvestment report as well as the "Wood Court" and proposed expansion thereof. Questions were asked of the presenters by Committee Members. Chairman Wills of the House Judiciary Committee was particularly complimentary of the Administrative District Judges and their respective presentations.

Education was the theme before JFAC all week. Presentations covered a broad spectrum of topics, including: a report by the Presidents of each of Idaho's publicly funded Colleges, pay proposals in school budgets, WiFi contracts in public schools, the Education Task Force Plan and career ladder proposals, and an open forum on Common Core. All of these topics are of high interest to every Idahoan for many different reasons on many different levels. One of the more obvious is the amount of revenues which will be allocated to the various programs, which will impact how much revenue remains for other needs.

[SB 1227](#) has been introduced seeking to designate that portion of Interstate Highway I-84 located in Idaho as the Vietnam Veterans Memorial Highway.

A new development this year for our remote on-line listeners who are interested in following legislative proceedings is the upgrade in committee rooms to include video as well as audio. For those who might be interested in following committee proceedings, first look for the appropriate agenda at <http://www.legislature.idaho.gov/sessioninfo/agenda.htm>. Then if you locate something of interest, at the designated time tune in on-line to "Idaho in Session" at <http://www.idahoptv.org/insession/>. From there, click on the "Legislature" icon and follow the prompts to the desired committee. Please note that JFAC has its own icon.

A Joint House Health and Welfare Committee meeting was held Friday, January 24 to take public testimony on a wide range of topics related to Health and Welfare, including concerns about the behavioral health contractor Optum.

“On the Radar” is Judge Eric Wildman’s SRBA presentation before JFAC, which will be on January 28; and Patti Tobias will present the Court’s FY15 budget before JFAC on February 6, 2014. JFAC has also scheduled public hearings on February 14 where general members of the public will be able to address the Committee.

The First annual *Senator Denton Darrington Lecture on Law and Government* is scheduled for February 3, 2014 at 4 pm MST in the Lincoln Auditorium in the Capitol. The featured speaker is J. Clifford Wallace, Senior Judge, Chief Judge Emeritus, United States Court of Appeals for the Ninth Circuit. This annual lecture is sponsored by the University of Idaho College of Law, the Idaho Supreme Court, and the Idaho State Bar and Law Foundation. The annual lecture will address a wide range of topics related to the improved administration of the justice system and feature well respected national, state and regional speakers to address Idaho citizens, students, and officials from all these branches of government.

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### **Week ending January 17, 2014 [Week #2]**

On Friday, January 10, 2014, following the publication of the Week 1 Legislative News, the Legislative CEC Committee held its 3rd meeting of the week. The Committee heard the HAY Group Study of state employee compensation that concluded that the state’s salaries and benefits overall are 29 percent behind the private sector market, and 10 percent behind other states. The benefits package offset some of the impact of the lower salaries, but not all. The CEC Committee concluded its business with a unanimous vote to fund 2% in raises for state employees next year – 1% for permanent pay added to the base salary, and 1% in one-time bonus payments. This is a recommendation only and must be approved by the entire legislature if it is to become effective. Each 1% in raises for state employees costs the stated general fund about \$5.3 million. For teachers, the figure is \$9.3 million. Judges are not included in this proposal, but the Court’s non-judicial employees would be. JFAC voted on January 17 to accept the report of the CEC Committee for the 2% average pay boost for state workers for FY 15, but won’t make take the matter up for a final vote on budget setting figures until at least February 12 in order to consider the “overall blueprint for the budget.”

On the Judicial recruitment and compensation fund, the Court is proposing to address judicial salaries this legislative session with a target goal of \$160,000 for Supreme Court Justices, \$145,000 for Judges of the Court of Appeals, \$135,000 for District Judges and \$120,000 for Magistrate Judges. It is too early to provide any additional information about the possible success this legislative session, and a prediction cannot be reasonably made on how long it will take to reach this goal. Legislation will be introduced this session. You can read the [“Talking Points” document](#) which has been provided to the Legislators. Also, [click here](#) for the *Report to the Idaho Legislature (January 14, 2014), Why Increasing Judicial Salaries is Necessary Now: District Judge Recruitment Challenges Persist*.

On January 13, 2014 IDHW Director Dick Armstrong appeared before JFAC and provided briefings on a number of matters, but two of which are of significant interest to the Courts. One is behavioral health community crisis centers for those with mental health or substance abuse disorders. Three are initially planned around the state next year with plans to expand to seven if these are successful. A goal is to provide laws enforcement an option when answering behavioral health calls, rather than incarceration or hospitalization. The second is a child welfare pilot project to reduce foster care entries. Idaho has been chosen as the state to pilot a program with funding from a federal grant. The goal is to fund in-home preventive services that allow children to safely remain at home while certain problems are being addressed, rather than going promptly to foster care.

[Senate Concurrent Resolution 132](#) was introduced January 14, 2014 stating Legislative Findings and Recognizing Judge Edward J. Lodge for his fifty (50) years of Service on the Bench of State and Federal Courts. You are encouraged to read this Concurrent Resolution which sets forth the remarkable background of Judge Lodge as well as a brief description of some of the significant cases over which he has presided. Judge Lodge is the longest serving judge in Idaho’s history. His wife, Senator Patti Ann Lodge, is the Chair of the Senate Judiciary and Rules Committee. Between the two of them, with Judge Lodge’s 50 years on the bench and Senator Lodge’s career as a teacher and legislator, they have over 100 years of combined public service to the citizens of Idaho. We thank them both.

On Tuesday, January 14 the Public Defense Interim Committee met to review and discuss draft legislation, additional policy considerations and recommendations. The Committee did vote to propose legislation which would, among other things, create a Commission, seek \$300,000 in funding for the first fiscal year, hire an Executive Director and limited staff, provide operating monies, and ear-mark \$100,000 of the appropriation for training. Another key provision of the

proposed legislation would prohibit “flat-fee” contracts. Lastly, the Committee agreed to seek authorization to continue for another year. For those who have an interest, here are the Interim Committee [minutes of the January 8 meeting](#) and the [November 20, 2013 meeting](#). When the actual proposed bill gets printed, it will be circulated for comment. When the meeting minutes of the January 14 meeting are approved, those will be linked to as well.

Representative Patrick McDonald was named by Governor Otter to fill Mark Patterson’s remaining term following Patterson’s resignation from the House. The new representative will be on the House Judiciary Committee as well.

The first “Politics for Lunch” session sponsored by the Andrus Center was held on Tuesday with Senator Bart Davis as the feature speaker. Senator Davis spoke of the Justice Reinvestment project and told the group that the project could save the state a “bucket-load of money.” January 21 will feature Speaker Scott Bedke; January 28 will feature Senate Minority Leader Michelle Stennett, and February 4 will feature House Minority Leader John Rusche.

The Justice Reinvestment project had numerous events this week. First there was a working group and briefing held on January 14, an Interim Committee meeting held on January 15, and a Public Hearing for a Joint Legislative meeting held on January 16. The Interim Committee voted 7 – 0 with 3 absent to accept the Report of the Council of State Government’s Justice Center. No proposed legislation has been circulated for public review or comment but it is anticipated that there will be in the near future, perhaps as early as next week. On January 17, Governor Otter endorsed the framework proposed by the Justice Reinvestment plan, and is quoted as saying:

*“This framework outlines a variety of sensible changes we can make as a state that will greatly impact both public safety and the amount of tax-payer dollars that go towards corrections. This is simply a no-brainer for me, and I hope the Legislature sees a similar value and acts accordingly.”*

The Felony Sentencing Committee will meet January 23 and discuss the report and some legislative proposals which are being drafted for discussion purposes based upon some of the policy options which CSG has provided. As part of the District Judges annual seminar, the District Judges will also hear from Marc Pelka of CSG on January 24, and will also hear a presentation on the LSI-R risk assessment tool. Steve Bywater has been brought out of retirement to draft JRI legislation for the Felony Sentencing Committee and District Judges.

Representative Linden Bateman has proposed legislation to name March 4 “Idaho Day” which would mark the anniversary of President Abraham Lincoln signing the Idaho Territory into Law in 1863. Once printed, the link will be provided.

Monday is a holiday for some, but not the Idaho Legislature, which will be in session.

“On the Radar” is Chief Justice Burdick’s State of the Judiciary Speech, to be delivered to the Senate on January 21 at 11:15 a.m. MST; and to the House at 11:35 a.m. As mentioned above, the District Judges will be in town for their annual seminar January 22-24, and there will be a dinner with the House and Senate Judiciary and Rules Committees, Leadership, and JFAC being invited. The Administrative District Judges are presenting to the House Judiciary Committee on January 23.

Judge Eric Wildman’s SRBA presentation before JFAC will be on 28, 2014; Patti Tobias will present the Court’s FY15 budget before JFAC on February 6, 2014. JFAC has also scheduled public hearings on February 14 where general members of the public will be able to address the Committee.

The First Annual Senator Denton Darrington Lecture on Law and Government is scheduled for February 3, 2014 at 4:00 p.m. MST in the Lincoln Auditorium in the Capitol. The featured speaker is J. Clifford Wallace, Senior Judge, Chief Judge Emeritus, United States Court of Appeals for the Ninth Circuit. This annual lecture is sponsored by the University of Idaho College of Law, the Idaho Supreme Court, and the Idaho State Bar and Law Foundation. The annual lecture will address a wide range of topics related to the improved administration of the justice system and feature well respected national, state and regional speakers to address Idaho citizens, students, and officials from all there branches of government.

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## **Week ending January 10, 2014 [Week #1]**

The 2<sup>nd</sup> Regular Session of the 62<sup>nd</sup> Idaho Legislature opened Monday, January 6, 2014. A Joint Session of the House and Senate, with both the Idaho Supreme Court and the Court of Appeals in attendance, heard Governor Otter's 8<sup>th</sup> [State of the State Address which is now combined with the Governor's Budget Message](#).

Like last session, the Governor again made no CEC recommendation for state employees (Change in Employee Compensation), which translates to proposing no base pay increases for state employees. However, in talking with the media reporters at a news conference following the address, Governor Otter did provide that the state will spend an additional \$12.7 million on employee health insurance cost increases over the next year, or what has been dubbed "equivalent to a 2% CEC". That sum is estimated to fully fund the state's share of the insurance cost increases, but state workers would still have to pay their share of the increase.

Here are some of the highlights from the SOS which outline the Governor's priorities for this year's session:

- A 2.5% increase in ongoing spending from the general fund, which proposal totals \$2.885 billion in state general funds, a 3.7% increase from the current year's \$2.781 billion; but that includes a number of one-time expenditures and deposits into rainy day funds.
- The "rainy day funds" proposed to be boosted are the Budget Stabilization Fund, the Public Education Stabilization Fund, and the Higher Education Stabilization Fund.
- A \$35 million dollar "down payment" on restoring more than \$80 million dollars cut from the schools during the economic downturn.
- Funding to complete the broadband internet education system to every elementary and middle school in Idaho.
- Add a second year of the law school in Boise from the University of Idaho College of Law.
- Increase budgets for community colleges and four-year colleges and universities.
- Consideration of some kinds of tax relief but only if the education improvement proposals are first met.

By operation of Idaho Law, the Court's budget requests are simply included with the Governor's budget and are passed on to the Idaho Legislature without a recommendation one way or the other. The "Big One" stated in the Court's budget request this year is initial funding to begin the replacement of ISTARs with the new case management system Odyssey, by Tyler Technologies. [Click here for the Judiciary's budget](#).

For any of our readers who really are stimulus starved and want to get down to the gritty details of the State's financial picture, [click here for the January 2014 Economic Forecast](#), which is only 79 pages.

And for any of you who really want to get deep into the weeds, click here for the [FY 2015 General Fund Revenue Book](#) consisting of 111 pages. As was reported last year, Idaho also has a public information website from which one can examine the details about the State's financial transactions. The site is [TransparentIdaho.gov](#).

On Wednesday, the Division of Financial Managements' December, 2013 General Fund Revenue Report was released. The State's tax revenue came in about \$2 million more than expected, however the revised revenue forecast for the year was lowered slightly this month from the August, 2013 forecast. The January 2014 *Idaho General Fund Revenue Report* is now available – [Click here](#).

The joint Economic Outlook and Revenue Assessment Committee (EORAC) have unanimously accepted the Governor's revenue estimate for FY15, upon which to begin the general fund budgeting process. This is the second year in a row the 18 member panel has agreed with the revenue projections from the executive branch. The published figure is \$2.98 billion dollars and represents a 6.4% increase over FY14.

Other big news this week includes the Legislature's Joint CEC Committee which met on three afternoons this first week of the session, Tuesday, Wednesday and Friday, with a segment open for public comment, in which agency representatives and/or individual state employees were welcome to participate. The Committee consists of 9 Senators and 9 House members. This is big news because this Joint Committee has not met since 2008, and there has been only one raise for state employees in the past five years, which was 2%. For anyone interested, part of the Committee's work has been a review of the [FY 2015 Report to the Governor on State Employee Compensation & Benefits, by the Division of Human Resources, Department of Administration and the PERSI](#). As of this writing, the Friday meeting

has not occurred and the Committee is scheduled to vote on recommending a possible Idaho state employee increase this afternoon. This Committee may also make other recommendations about CEC for State Employees.

The Court's Felony Sentencing Committee (FSC) met on Wednesday and heard Marc Pelka of the Council of State Governments Justice Center speak about policy proposals following the Criminal Justice Reinvestment Interim Committee work over the summer. The Interim Committee is a result of [Senate Concurrent Resolution 128 \(2013\)](#). This work is of high interest because significant policy and budget proposals will be forthcoming this legislative session which will likely alter current felony probation and parole practices and procedures in significant ways. We will keep District Judges advised of all developments and seek input and guidance at all opportunities.

The other Interim Committee which is of significance to the Judiciary is the Public Defense Reform Interim Committee formed by [HCR 26 \(2013\)](#). This Committee last met on January 8, 2014 and discussed some proposed legislation which will be introduced this session. A draft of the proposed legislation is not yet available, but will be circulated once available for comment.

The Legislature devotes much of its time in the first few weeks of every session to a review of administrative rules which have been drafted by the various executive branch agencies since the last session in response to laws passed in prior sessions. This year is no exception and the review process by the germane committees has begun in earnest. Idaho law provides that the legislature can veto agency rules in whole or in part. Many of those rules do not attract very much attention; however some do draw a lot of interest. A few ultimately get rejected.

For those who have an interest in following the activities of the Legislature more closely, you can visit the Legislative website at <http://www.idaho.gov/government/legislative.html> which provides a listing of all bills filed; legislative agendas, and other matters of interest. You can also listen live to Committees including JFAC, as well as to either the House or the Senate when they are in session by going to "Idaho in Session" at [www.idahoptv.org/insession/](http://www.idahoptv.org/insession/)

The composition of our 2014 Legislative Review Teams is nearly complete. These teams are of significant importance to the Judges, Supreme Court and our relationship with members of the Legislature. As such, your participation is needed and is appreciated. If you are not on one of these teams but would like to participate, please contact Deena Layne (for Michael Henderson) at [dlayne@idcourts.net](mailto:dlayne@idcourts.net).

Other dates of interest which have been established by Legislative Leadership are the last day for filing a "personal bill" by an individual legislator in the Senate is January 17, and in the House is January 24. This means that any individual legislator can ask that a bill be introduced up to these dates. After the personal bill deadline has passed, there is a "germane committee" deadline in a couple of weeks and any bill has to come from that committee or a "privileged committee." Following the germane committee deadline, any bill must come from a privileged committee.

This being an election year, there are some interesting dynamics in play and speculation abounds regarding potential election challenges. According to the Idaho Secretary of State web page [www.sos.idaho.gov/elect](http://www.sos.idaho.gov/elect), the filing period begins on March 3 and ends March 14, 2014 with the primary being held on May 20. If any of our judges have campaign financial matters, you are urged to check the financial reporting and sunshine requirements which can be located on the web page cited above.

On the "radar screen" are Chief Justice Roger Burdick's *State of the Judiciary Speech* sometime in the next couple of weeks; the 7 ADJs will be presenting to the House Judiciary, Rules and Administration Committee on January 23 during the annual District Judges Seminar; Judge Eric Wildman's SRBA presentation before JFAC will be on 28, 2014; Patti Tobias will present the Court's FY15 budget before JFAC on February 6, 2014. JFAC has also scheduled public hearings on February 14 where general members of the public will be able to address the Committee.

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feature well respected national, state and regional speakers to address Idaho citizens, students, and officials from all there branches of government.

As a little piece of legal trivia, [I.C. §67-404](#) provides that the legislature convenes each year “on the Monday on or nearest the ninth day of January.”

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