

## 2016 Legislative News

by Senior Judge Barry Wood

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The **Bills of Interest** may be accessed on the Court's Website at: [http://www.isc.idaho.gov/current\\_legislative\\_session](http://www.isc.idaho.gov/current_legislative_session)

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### Legislative News, Week ending January 29, 2016 [Week #3]

Late last week, Fourth District Judge Sam Hoagland issued a decision dismissing a lawsuit against the state involving the public defense system in Idaho which had been brought by the ACLU. This week, the ACLU of Idaho filed a notice of appeal from that dismissal. The Legislature's Public Defense Interim Committee continues to work toward proposed legislation to deal with some of the issues raised in the litigation. The most recent meeting was held the afternoon of January 28. Legislation is expected to be forthcoming from this group; however, as of this writing, a final draft has not emerged.

The District Judges were in Boise January 25 through 27 for their annual District Judges educational seminar. On January 25, the District Judges appeared at the capital to watch their seven Administrative District Judges make a presentation to the House Judiciary, Rules and Administration Committee. On January 27, the Administrative District Judges made the same presentation to the Senate Judiciary and Rules Committee. At the conclusion of the presentations, Senator Lodge, as Chair of the Committee, specifically thanked all of the judges in Idaho who handle problem-solving courts "because of all of the successes they have demonstrated." In both chambers, Committee members asked questions of some of the presenters, and the programs were well delivered and received. These presentations were broadcast statewide over Idaho Public Television's "Idaho in Session" network (<http://idahoptv.org/insession/>).

On the evening of January 25, the District Judges Dinner was attended by Senator Patti Anne Lodge and Representative Rich Wills, chairs of the respective Judiciary and Rules Committees. The assembled group heard some remarks from Chief Justice Jim Jones.

This week was Education Week before JFAC, but the week started with Governor Otter submitting a series of revisions to his executive branch budget to JFAC which included a nearly \$5 million increase in the proposed public schools budget to reflect updated enrollment figures equaling approximately 47 additional classrooms of students. There was also a proposed increase to IDWR's budget relating to aquifer recharge in the East Snake Plain Aquifer. There was a corresponding decrease in monies requested for state's Catastrophic Health Care fund. These budget request adjustments are being monitored because they could directly affect the amount of money JFAC has available for other budgets, including the Court's.

IDAPA Rules review before various committees continued this week. Two of those rules were proposed PERSI temporary rules relating to the Judge's Retirement Fund. The first dealt with IRS requirements. The second dealt with contribution rates. Andrea Patterson and Senior Judge Barry Wood appeared before the House Commerce and Human Resources Committee on Wednesday, January 27, together with Don Drum, Executive Director of PERSI. The rule dealing with the IRS matters generated no questions. Following a presentation and questions on the temporary JRF Rule on contribution rates, this temporary rule passed the House Committee by a wide margin, with only 2 NO votes. There was a repeat performance on January 28 in the Senate Commerce Committee and the temporary rule on contribution rates passed unanimously.

On Friday, January 29, the House Judiciary Committee will conduct print hearings on two of the Court's legislative proposals for 2016. To be heard is RS 24140, a proposed amendment to the withheld judgment statute, and RS 24146 dealing with an amendment to the minor's compromise statute.

For those who may wonder what an "RS" is, this is shorthand for "Routing Slip." The number which follows is the identifying number of that particular proposal. In the ordinary course of business, an RS is not subject to public

disclosure (beyond the sponsor and the committee members) until the print hearing. However, the sponsor can agree to release their RS to whoever before it becomes public after the print hearing. The idea is to keep these proposals out of the public domain until the assigned committee has had a hearing and determined whether the proposal should be printed. If the committee votes to print, then the proposal is assigned a bill number and becomes public.

After a very slow start to bill introductions in week 1, things have really picked up. As of Thursday evening of the week 3, the House has printed nearly 70 bills and the Senate just over 30. The Senate's personal bill deadline was January 22, and the House's personal bill deadline is January 29. See the important dates set by Leadership near the end of this document for other looming deadlines relating to bill introduction.

#### On the Radar.....

February 1: House Judiciary will hold a print hearing on RS 24139, which is the Court's proposed priority of payments legislation.

February 1: House Minority Leadership informal meeting with the Supreme Court.

February 1 or 3: Likely to be a print hearing on the Court's two "Defects" bills in Senate Judiciary and Rules.

February 1: Administrative District Judges meet in the evening.

February 2 and 3: Elected Clerks meeting at the Supreme Court; and Administrative Conference.

February 3: Judge Eric Wildman and IDWR present the water adjudication budget matters to JFAC.

February 4: Governor and staff informal meeting with the Supreme Court.

February 8: The Third Annual Senator Denton Darrington Lecture on Law and Government. The 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 lecture was established 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 of interest to Idaho citizens, students, and officials from all three branches of government. This year's lecture is scheduled to be held at the Idaho Law & Justice Learning Center, and with a reception at 4:30 p.m. MST and the lecture at 5:00 p.m. MST. The featured speaker is former Colorado Supreme Court Justice Rebecca Love Kourlis, the executive director of the Institute for the Advancement of the American Legal System (IAALS).

February 10: House Majority Leadership informal meeting with the Supreme Court.

February 11: Court's Budget presentation to JFAC by Interim Administrative Director of the Courts Justice Linda Copple Trout. 8:00 am MST.

February 11: Senate Minority Leadership informal meeting with the Supreme Court.

February 16: Senate Majority Leadership informal meeting with the Supreme Court.

February 16: CEC Legislative Committee reports to JFAC.

February 16 and 17: Germane Committee Reports to JFAC (as it relates to the Idaho Judiciary, this means the Co-Chairs of the respective Senate and House Judiciary and Rules Committees will address JFAC. The exact date and time have not yet been posted).

February 18: JFAC Public hearing for budget-related issues.

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## Legislative News, Week ending January 22, 2016 [Week #2]

Monday was the official state Martin Luther King Jr./Idaho Human Rights Day Holiday but the Idaho Legislature had a full day of legislative activities on the schedule. Chief among them were JFAC beginning a full week of hearings on Health and Human Services budgets (IDHW). Due to the large number of programs and huge budget IDHW manages, this Agency takes essentially a full week before JFAC. Next week, beginning January 26 is Education week before the Committee.

One matter of interest to the Court's was IDHW's pitch before JFAC for funding for a third Mental Health Crisis Center to be located in Southwestern Idaho. According to some statistics presented, the first Crisis Center in Idaho Falls saved the state about \$764,000 by serving patients who would have otherwise been hospitalized or been treated in emergency rooms. Another metric advanced was the 259 referrals accepted from law enforcement which in turn saved police and other agencies an estimated 1200 hours of work. The second Crisis Center in the state is in Coeur d' Alene and it opened in late 2015.

A group of Magistrate Judges from around the state appeared before both the House and Senate Judiciary & Rules Committees and gave a presentation that highlighted the important work of the Magistrate Division. Monday was the Senate Committee and Tuesday was the House Committee. These presentations were both well delivered and well received. *[story & photo included today's E-News]*

Following the last week's [State of the State and Budget speech](#) by the Governor, legislator training, legislative page orientation, Committee organization, and start of IDAPA Rules review, the 2nd week saw the pace pick up substantially on Committee action primarily related to the continued review of IDAPAs.

It was reported last week that the Legislature's joint Economic Outlook & Revenue Assessment Committee of 2016 (EORAC) had set their revenue projection for FY 2017. JFAC has now accepted that panel's report. The forecast predicts a 4.9% state general fund growth for FY 2017. However, JFAC's "acceptance" of that revenue projection does not equate to JFAC being obligated to budget to that number. More specifically, following budget presentations and before actual budget setting begins, JFAC will determine an actual dollar number to budget to; which in some years has been the EORAC number and in other years it has been different. One important item that enters into this process is that by the time JFAC gets to the point of selecting the actual number, more financial information will exist; in particular the January 2016 general fund revenues will be known.

The joint Legislative CEC Committee had its final meeting on Tuesday beginning at 7 a.m. MST. On a vote of 12 - 6, the panel ultimately determined to follow Governor Butch Otter's recommendation for merit-based raises averaging 3% for state employees in the FY 2017 state budget, plus covering the increase in health insurance costs so that would not diminish any raises state workers receive. However, this was not a smooth sailing meeting. There were 5 different motions brought before the group, which illustrates that this issue is still probably not fully settled.

This is the first year that Idaho will conduct a separate election for the Presidential Primary (I.C. §34-731) to be held on the 2nd Tuesday in March in each presidential election year. This year the date is March 8. The Senate State Affairs Committee saw an RS come before it from the Idaho Secretary of State's Office for a print hearing dealing with establishing procedures related to write-in candidates, ballots with one presidential candidate and moving the cutoff date for changing party affiliation. This is now printed as [SB 1195](#).

[Chief Justice Jim Jones presented the State of the Judiciary](#) separately before the Senate and House Chambers on January 20. Legislative Leadership agreed a year ago to set the 2nd Wednesday of each Legislative Session as the date to invite the Chief Justice to make these remarks. The presentation was well delivered, with some humor, and was very supportive of this year's budget requests.

Regarding the significance of the last day for filing a "personal bill" by an individual legislator in the Senate (January 22, 2016), and in the House (January 29, 2016), which have been established by Legislative Leadership, 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 of February 15 (36th legislative day). Following the germane committee deadline, any bill must come from a "privileged committee".

While not yet printed, two Representatives have released a draft of a proposed "constitutional carry" bill, which proposes to add a provision to the existing statute which would allow people to carry concealed guns without a concealed-weapons permit "outside the confines of any building within city limits".

The Public Defense Reform Interim Committee met on January 21 to discuss another draft of the legislation which the Committee has been discussing. It is anticipated that this will be the last meeting before the legislation is printed. By next week there will likely be a bill number that can be referenced.

At the end of the first legislative week, only 1 bill had been printed in the House. As of Thursday evening of the second legislative week, there are 31 printed bills in the House and 9 in the Senate.

#### **On the Radar.....**

January 25: the Administrative District Judges will make a presentation to the House Judiciary, Rules & Administration Committee.

January 27: the same panel of Administrative District Judges will make a presentation to the Senate Judiciary & Rules Committee.

February 1: House Minority Leadership informal meeting with the Supreme Court.

February 3: Judge Eric Wildman and IDWR present water adjudication budget matters to JFAC.

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February 8: The Third Annual Senator Denton Darrington Lecture on Law and Government. The 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 lecture was established 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 of interest to Idaho citizens, students, and officials from all three branches of government. This year's lecture is scheduled to be held at the Idaho Law & Justice Learning Center, and with a reception at 4:30 p.m. MST and the lecture at 5:00 p.m. MST. The featured speaker is former justice Rebecca Love Kourlis, the executive director of the Institute for the Advancement of the American Legal System (IAALS).

February 10: House Majority Leadership informal meeting with the Supreme Court.

February 11: Court's Budget presentation to JFAC by Interim Administrative Director of the Courts Justice Linda Copple Trout (8:00 am MST).

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#### **Legislative News, Week ending January 15, 2016 [Week #1]**

The 2<sup>nd</sup> Regular Session of the 63<sup>rd</sup> Idaho Legislature opened Monday, January 11, 2016. There is already a target adjournment date of March 24, 2016. The beginning date of the Legislature each year is set by statute; see Idaho Code §67-404. This statute provides the session begins on the Monday closest to the 9<sup>th</sup> of January. In 2017 it will be Monday January 9.

On Monday, January 11, 2016 a Joint Session of the House and Senate, together with both the Idaho Supreme Court and the Court of Appeals in attendance, heard Governor Butch Otter's 10<sup>th</sup> combined [State of the State and Budget Message](#). Some of the priorities of the Governor for this legislative session include:

- State funding for Public Defense of \$5 million dollars
- Funding for a third Mental Health Crisis Center like the ones put in Idaho Falls in 2014 and Coeur d' Alene in 2015
- Funding for aquifer recharge
- Significant funding increases for Public Schools
- Increasing the number of Community Colleges with an emphasis on Eastern Idaho
- Funding a health care initiative for the approximate 78,000 Idahoans who fall into a coverage gap - those who make too much to qualify for Medicaid, but not enough to qualify for subsidized health plans through the state's insurance exchange - to receive limited primary and preventive care through a nearby community health center, get help managing chronic illnesses, and pay fees on a sliding scale.

In his State of the State message, Gov. Butch Otter also spoke out on the need for raises for state employees. "They take great pride in being public servants and in being responsive to the needs of Idaho citizens," he said. "That's why I'm so pleased to be able to announce today that my budget request includes funding for agency directors and administrators to retain and reward their personnel. It's a step in the right direction toward attracting and keeping great public servants." The Governor did not provide a CEC figure in his speech, but his proposed budget documents include funding for an average 3 percent merit-based raises for state executive branch employees.

The 3% CEC recommendation discussed above is anticipated to also apply to judicial officers (Justices and Judges) as well as to the Court's non-judicial employees. One caveat at this point in time is that the State's portion of the annual health insurance costs per employee is projected to/will increase significantly this next fiscal year. As such, it remains to be seen what impact, if any, this increase might have on the Legislature and whether it follows the Governor's recommended CEC. Additionally, all CEC matters must go through the legislative appropriations process (JFAC). For Judicial Officers, this would also require legislative action to amend I.C. §59-502.

In other CEC news, the joint Legislative Change in Employee Compensation Committee met on January 13, 2016 to discuss the Governor's CEC Recommendation as required by Idaho Code §67-5309(c). Following the Governor's presentation to the Joint Legislative Session, the Department of Financial Management (DFM) released the ["Idaho General Fund Revenue Report" for January, 2016](#) listing December 2015 General Fund revenue collections at \$282.0 million, which was \$12.5 million (4.2%) below the revised forecast of \$294.4 million for the month. During a JFAC presentation by Jani Revier of DFM to JFAC on January 12, Revier told JFAC there was not yet enough evidence to determine whether this decline was just a matter of timing of tax collections or whether this was the start of a trend.

In other budget related news, Governor Otter, working through his staff, has predicted state tax revenues for FY2017 to be \$3.3404 billion. In response, the Legislature's joint Economic Outlook & Revenue Assessment Committee of 2016 (EORAC) met on January 7, 8, and 14, 2016 to set their own revenue projection. On January 14, the EORAC adopted the Governor's revenue forecast on a vote of 13-4. This determination is a key factor because the dollar figure adopted by EOARC provides the basis for setting the state's budget for the upcoming fiscal year. Idaho continues to be in a much better financial position than it was just a few short years ago during the big economic downturn (2008 - 2010). This is particularly encouraging news for funding the Court's large iCourts project and other Court budget requests to be decided this session.

The Legislature devotes much of its time in the first few weeks of every session to a review of administrative rules (IDAPAs) which have been drafted by the various State of Idaho executive branch agencies since the last session. These rules are drafted to implement or interpret laws enacted in prior sessions. This year is no exception, and the review process by the respective 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 draw considerable attention. A few ultimately get rejected. Each Legislative Chamber reviews and votes on these rules independently of the other. Readers can access the rules coming before the respective Committees for review by visiting the Idaho Legislature Home Page, and [clicking on the link Administrative Rules](#).

The Legislative Interim Committee on Public Defense Reform met on January 13, 2016. The joint Committee heard from several presenters including the Public Defender in Twin Falls County and the Public Defender from Minidoka and Cassia Counties. The Committee also discussed proposed legislation for the upcoming session. A new draft of the legislation is anticipated before the next interim Committee meeting scheduled for January 21, 2016.

On the actual legislation side of things--- as of this writing --- only one bill has been printed in either chamber. The bill is [H331](#) which seeks to amend I.C. §23-616 to outlaw the possession, use, purchase or sale of powdered alcohol in Idaho.

2016 is an election year for all members of the legislature and there is already significant conversation about the upcoming candidate filing period as well as who might be challenged in the May primary election; as a result, there is a good deal of conjecture about how this may affect various pieces of legislation being proposed as well as the date of adjournment. For the 2016 election cycle, the first day to file for these offices is February 29 and the last day is March 11, 2016. For those of you who may wonder how these dates are set, the time line is set forth in I.C. §34-704 and they key off the primary election date. The primary itself is the 3<sup>rd</sup> Tuesday in May or May 17, 2016, I.C. §34-601(1).

#### On the Radar.....

January 18: a panel of Magistrate Judges will make a presentation to the Senate Judiciary & Rules Committee.

January 19: the same panel of Magistrate Judges will make a presentation to the House Judiciary, Rules & Administration Committee.

January 20: Chief Justice Jim Jones will deliver the State of the Judiciary: 11:00 a.m. Senate; 11:30 a.m. House.

January 21: Meeting of Legislative Interim Committee on Public Defense.

January 25: the Administrative District Judges will make a presentation to the House Judiciary, Rules & Administration Committee.

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As always, if you have any thoughts, suggestions, or questions, please send them back this way to me at [bwood@icourts.net](mailto:bwood@icourts.net). Thanks for reading.

### **Legislative News: A look at what's ahead [January 8, 2016]**

Monday, January 11th is the first day of the 2<sup>nd</sup> Regular Session of the 63<sup>rd</sup> Idaho Legislature, so the first full-fledged *Legislative News* for the 2016 Session will be included in the E-News next Friday, January 15. In the meantime, here is a brief primer on how and what you can follow the first week (beginning January 11) and thereafter. Much of the legislative support staff does not begin working until the first day of the session, so it may take a day or two to get everything current.

[Click here](#) to access the Legislative Home page, which has been updated for the 2016 Session. From this page, you can access many different matters of interest including calendars and agendas of the various legislative committees, the budget hearing schedules, the newly updated 2016 Legislative Directory, and create your own individualized Bill Tracker.

[Click here](#) to watch live coverage of House and Senate floor proceedings, as well as legislative committee hearings. Or from the Legislative Home page link above, just click on the "Video and Audio Streaming" link and you will be taken to the "Idaho in Session - Legislature Live" page ([www.idahoptv.org/insession/leg.cfm](http://www.idahoptv.org/insession/leg.cfm)). From there, click on the appropriate links. For Committees, scroll down to the "Committees/Locations" section and follow the prompts. For instance, the **Public Defense Reform Interim Committee** is scheduled to meet on Wednesday, January 13 at 4:00 pm MST, and you could watch this online if you're so inclined.

By way of committee orientation, the germane committees to the Idaho Judiciary are the Senate Judiciary and Rules Committee - chaired by Senator Patti Anne Lodge, and the House Judiciary, Rules and Administration Committee - chaired by Representative Rich Wills. The Senate Judiciary and Rules Committee meets Mondays, Wednesdays, and Fridays of each week at 1:30 pm MST. The House Judiciary and Rules Committee meets on odd numbered days of each week at 1:30 pm MST. Hence, in weeks where Monday is on an even number date, the two Committees meet on different days of the week (Senate M,W,F, and House T, Thurs). However, in weeks where Monday is on an odd number date, the two Committees meet on the same three days of the week at the same time (M,W,F).

The other Committee that is of primary importance to the Idaho Judiciary is the Joint Finance-Appropriations Committee, co-chaired by Senator Shawn Keogh and Representative Maxine Bell. This committee is comprised of 10 Senators and 10 Representatives and meets every day of the week at 8:00 am MST.

On Monday, January 11 at 1:00 pm MST you can tune in to the Governor's combined State of the State and Budget address (*see instructions above "to watch live coverage"*).

As of this writing, Committee agendas are not yet available or posted, but you can check the "Calendars and Agendas" link on the Legislative Home Page starting Monday, January 11<sup>th</sup>. These are usually posted by late afternoon for the next day's business.

As a reminder, please review the *Protocol for All Judges*: [Building Productive Legislative-Judicial Relationships](#).

### **2016 Budget and Legislative Priorities of the Judiciary**

[2016 Idaho Supreme Court Budget Priorities](#)

[Court Technology: Improved Access, Enhanced Data Sharing, and Maximized Efficiency](#)

[Judicial Recruitment and Excellence: Promoting Effective, Innovative Services](#)

[Senior Judges: An Essential Resource for the Idaho Courts](#)

[Language Access: Ensuring Meaningful Access to Justice](#)

[2016 Idaho Supreme Court Legislative Priorities and Defects in the Law](#)

[2016 Idaho Supreme Court Other Policy Matters & Potential Legislative Topics from Others](#)