

Minutes of the Joint Legislative Oversight Committee
October 17, 2005
2nd Floor Courtroom, Borah Office Building
Boise, Idaho

Co-chair Representative Margaret Henbest called the meeting to order at 10:05 a.m. Attending the meeting were Senators Shawn Keough, Kate Kelly, and Bert Marley, and Representatives Maxine Bell, Debbie Field, and Donna Boe. Also present were staff members Rakesh Mohan, Director, and Margaret Campbell, Administrative Coordinator, and all other OPE staff.

Co-chair Henbest thanked Holly Thomas-Mowrey and Mike Smith for interpreting the meeting in sign language. She welcomed those in attendance, and acknowledged Senators Hal Bunderson, Wendy Jaquet, and Kathy Skippen. Also in the audience were Ray Ineck of Legislative Audits, Jeff Youtz, Cathy Holland-Smith, and Jason Hancock of Budget and Policy Analysis, Randy Tilley of the Division of Financial Management, and Parra Byron of the Governor's office, Harvey Lyter of the School for the Deaf and the Blind, Angela Roan of the Commission for the Blind and Visually Impaired, and Wes Maynard from the Council for the Deaf and Hard of Hearing.

REPORT RELEASE: *IDAHO SCHOOL FOR THE DEAF AND THE BLIND (ISDB)*

Representative Field moved to receive the report on the Idaho School for the Deaf and the Blind. Representative Boe seconded the motion and it passed unanimously by voice vote.

Mr. Rakesh Mohan, Director, thanked the staff at the Idaho School for the Deaf and the Blind for their assistance in conducting the study. He also thanked parents of sensory-impaired children and the school districts for their input on the study.

Mr. Mohan said the office made every effort to present a balanced report in tone and content. He said four consultants assisted with the study, and introduced one of the consultants, Dr. Tedd McDonald, Associate Professor at Boise State University, who was attending the meeting. Mr. Paul Headlee, Sr. Performance Evaluator, and Ned Parrish, Principal Performance Evaluator, presented a summary of the report findings and recommendations.

JLOC Questions

In response to Representative Boe's question, Mr. Headlee said ISDB met federal requirements of educating campus students in the least restrictive environment. In responding to other questions, he said day students lived a maximum of about 30 miles away from the school and were not on the bus for more than about one hour.

Representative Bell asked whether the Meridian School District program could serve as a model for other school districts. Mr. Parrish said that ISDB had used the Meridian model in different school districts. The program worked in Meridian because of the higher number of students with cochlear implants in the Treasure Valley.

Senator Kelly asked about the choices parents have when considering education for their sensory-impaired children. Mr. Headlee said ISDB staff work with school districts to develop the best individualized education program (IEP) for students, based on available resources. If the IEP recommends students attend ISDB, parents make the final decision.

Co-chair Henbest asked about restricting student enrollment on campus by the level of hearing loss. Mr. Headlee said an agreement between the Department of Education and ISDB indicated that visual or hearing impairment should be the primary disability, but did not identify specific criteria for the amount of loss. Adopting specific criteria could affect the number and type of students enrolled at ISDB.

Senator Marley asked why, if there was a decline in campus enrollment, had there been an increase of FTPs at ISDB. Mr. Parrish said the increase had been small, and the request for positions had been primarily to extend outreach services, which were increasing in demand. ISDB had shifted some staff from the campus to outreach services.

Senator Marley asked for clarification of what was included in outreach expenditures as outlined in the report, and whether the amount included instruction. Mr. Parrish referenced a pie chart on page 5 of the report, and said two-thirds of ISDB expenditures were costs to operate the ISDB campus: instruction, educational support, residential services, maintenance, food services, and pupil transportation. Nine percent of expenditures went to administration, which supported both campus and outreach programs. Outreach expenditures contained the costs identified as relating to the outreach program. It included program costs for regional consultants, teachers in the Meridian cooperative program, regional office space, consultant vehicles, and media services.

Senator Marley asked for a breakdown of personnel in the instruction and outreach expenditures. Mr. Parrish said of the total ISDB expenditures, personnel was approximately 80 percent, operating 17 percent, and capital outlay 3 percent in fiscal year 2005. Senator Kelly clarified that outreach expenditures did not include the cost to school districts for additional provision of services. She said that if those costs were included, the outreach expenditures would be much larger, and when looking strictly at the fiscal impact of serving this subset of students, there was no information at this time to compare ISDB costs to district costs for the provision of services.

Senator Marley asked how districts were funded if services were costing some districts \$30,000 or more. Mr. Parrish said most funding came from the districts' general budget, and some from federal funding the state received and allocated to special education populations. He said the state's funding formula provided for special education, but was not based on the number of students enrolled.

Co-chair Henbest asked if there was potential for outreach service costs per pupil to decrease as enrollment increased. Mr. Parrish said the costs may possibly shift depending on numbers. ISDB's cost will continue to rise if enrollment declines. He said the state could minimize the impact by making adjustments, such as shifting staff to outreach and operating fewer cottages. However, when a small number was divided into a big piece of pie, each drop in enrollment will have a significant impact.

Senator Marley asked staff to explain the discrepancy over ISDB's report to JFAC that its teachers were paid 23 percent less than school districts, and the evaluation reported ISDB teachers were paid 13 percent less. Mr. Headlee said the budget request was for \$277,000, which was a 13 or 14 percent increase. He did not know how ISDB calculated the 23 percent figure.

Representative Boe asked about certification of special education teachers and how it compared to school district teachers. Mr. Headlee said certification was similar. In response to Representative Boe's question about the type of multiple disabilities at ISDB, Mr. Headlee said multiple disabilities referred to deaf and blind, cognitive, autistic, or mental disabilities.

Agency Response

Co-chair Henbest called on Mr. Randy Tilley, Division of Financial Management, to address the committee. Mr. Tilley said the Governor's office did not have any general comments. They were following the progress of the State Board of Education and found the report recommendations paralleled with much of the board's discussion.

Co-chair Henbest called on Mr. Harvey Lyter, Interim Director of the Idaho School for the Deaf and the Blind, to address the committee. Mr. Lyter said there was an outstanding cooperative effort on the report. He said ISDB did not dispute any of the facts, although they reserved the right to have a different perspective on the outcomes. ISDB was working closely with the State Board of Education and had begun implementing some report recommendations.

Co-chair Henbest said she had understood the cooperation between OPE and ISDB was very stellar. She asked if ISDB had specifically started gathering quantified information about trends within the school. Mr. Lyter said ISDB had identified drafts of formulas to convert caseloads to workload calculations. They were already addressing issues of curriculum development. Many of the quantitative recommendations—calculation and trend analysis—had been started.

Co-chair Henbest said there seemed to be some dissatisfaction by parents over the quality of certified staff in the auditory-oral program and asked if the state had the resources to improve the quality of staff. Mr. Lyter said the state did not have in-house capability for training teachers in auditory-oral technology. He said an Idaho State University program worked with teachers for the deaf and hearing impaired, but the program did not specifically qualify people in auditory-oral training.

Mr. Lyter said that staff hired for the cooperative program in the Meridian School District were the best qualified for which Idaho could recruit. He said it was difficult to fill vacancies because of supply and demand nationwide and lower pay in Idaho. He said the three teachers currently in the positions were fully-qualified and had worked extensively with consultants at the Alexander Graham Bell Association.

In light of fewer children needing services from ISDB, Representative Bell said it was apparent the school needed to move in a different direction. She asked what factors contributed to the decline. Mr. Lyter said more school districts were involved in providing hearing-impaired services with the changes in federal law and state guidance over the last 10–15 years.

Mr. Lyter said the decision of placement for a student was made through the individual education plan process involving ISDB staff and parents. Quite often he found parents, especially those of younger children, were reluctant to send their children to a residential environment when the school district had indicated it provided services.

Mr. Lyter said he viewed the declining trend differently—and it was one area of the report where ISDB professionally and respectfully differed. The federal law calling for education in the least restrictive environment represented to hearing-impaired children the ability to best communicate directly with peers, staff, and faculty. A residential campus was the least restrictive environment along with the cognitive development of the children who attend—probably their very best opportunity for a free and appropriate public education.

With anecdotal evidence, Mr. Lyter said the declining enrollment trend will level or reverse itself within the next two to five years. In the 2002–03 school year, ISDB had only three inquiries about campus attendance, and in the 2004–05 school year, there were 17 inquiries. As of October 17, 2005, he said ISDB had 76 students on campus, and 4 referrals in process. So, within the first semester of the 2005–06 school year, ISDB had almost 80 students, and that statistic did not fit the trend analysis.

Representative Bell summated that if ISDB were to show school districts the services it offered to hearing-impaired students, campus enrollment would probably increase. Mr. Lyter said he saw significant potential. ISDB was working with the Department of Education and outreach staff to develop better communication with school districts.

In response to Senator Kelly's question, Mr. Lyter said that Idaho's general population of children with sensory impairments was not decreasing. There were two factors. First, children with impairments were identified better and earlier, so the population, if anything, was increasing. Second, through the trend of legal requirements school districts were stepping up services in the last decade and the demand for residential services had decreased.

Senator Kelly asked about the different impairments of students on campus. Mr. Lyter said there were hearing impairments, visual impairments, and special needs with the primary disability determined as either a visual or sensory impairment. Special need children have extreme mental retardation issues, cerebral palsy, and additional medical and cognitive development issues that do not make them appropriate candidates for the normal classroom environment. He said there were currently 14 special need students on campus; 12 day students—living with their parents or coming from a group home environment—and 2 residential.

Follow-up Questions

Co-chair Henbest asked OPE staff to respond to the earlier debate of whether the number of sensory-impaired students in Idaho was declining, and whether rubella immunizations had contributed to a decrease in children with hearing impairments. Mr. Parrish said rubella cases did not impact current enrollment trends because the last outbreak was in 1964, and those children had already moved through the education system. He said the number of sensory-impaired students had declined somewhat in Idaho and most neighboring states, even though the national trend showed an increase.

Mr. Parrish said the report did not question the quality of ISDB services as compared to school districts. He said ISDB likely provided far better services than most school districts. The number of sensory-impaired students in districts was generally very small, making it difficult for districts to provide comparable services.

Mr. Parrish said that while there may be a shift in enrollment trends as Mr. Lyter suggested, data did not support it. Fifty-five percent of the students enrolled at ISDB this year were in grades 9–12, and 14 were seniors. He said this trend of older students may partly be due to districts first serving the students, and for various reasons, students wanting or needing the services at ISDB as they got older.

Mr. Parrish said the trend for cochlear implants was increasing. When children receive early training, the implants were more likely to be successful. If effective training were available to children ages 1–5 of cochlear implants, parents would be less likely to send their children to ISDB for residential services.

Senator Marley referred to the discussion about the advantages of students attending ISDB, and asked why campus test scores were decreasing. Mr. Lyter said many older students attended ISDB because they were not served adequately in their home district. Typically, they came to ISDB well behind in academic, language, and cognitive development skills. For this reason, test scores were decreasing.

Senator Marley asked why there was a division among ISDB staff over the value of cochlear implants, and particularly whether sign language would be taught; he asked about the shortcomings of cochlear implants. Mr. Lyter said cochlear implants was a relatively new technology and there was considerable debate in the scientific community whether the technology would be around in 20 years or replaced by something else. There were children who received phase one of cochlear implants that were already three phases out of step with technology. He said sign language had been around for hundreds of years and was a proven and effective process.

Mr. Lyter said that approximately 12 percent of profoundly deaf children were not candidates for cochlear implants. Of the 80 percent who were implanted, about 20 percent do not work. The 60 percent left were faced with an extremely difficult process of habilitative training. Their surgery was only the beginning of a long journey. They need a supportive family environment and local access to technical advisors, and some children do not get all the necessary services to make the implants successful. He said in his judgment, society gets 40 percent or less complete success out of the technology.

Mr. Lyter said society should be supportive of parents who choose cochlear implants for their children. He said it was the philosophy of ISDB to support a total communication program and do the best they could for children with implants. With the resources available to ISDB, districts, and families, he said it was his opinion that cochlear implants could not be considered a panacea for the deaf. Sign language training was double training for the child with a cochlear

implant. He compared sign language to bilingualism, and did not understand the opposition to learning it.

In response to Representative Boe's question, Mr. Lyter said the youngest residential student for school year 2005–06 was 6 years old. Last school year there was a 3-year-old on campus for specific training, and Mr. Lyter projected there will be more 3-year-olds next year.

Representative Boe asked whether ISDB provided services in connection with the Infant Toddler Program through the Department of Health and Welfare, and who decided what services were needed. Mr. Lyter said ISDB had a cooperative agreement with the department to participate in specific training assistance for the family and the future of the child. ISDB also assists with communicating with the school district regarding needs of the child.

Co-chair Henbest asked for committee discussion on action. Senator Kelly asked about the progress of the State Board of Education subcommittee on ISDB. Mr. Headlee said the board subcommittee had met four times and would be ready to make recommendations in four weeks. He said OPE would monitor the progress of the subcommittee.

Senator Kelly asked if the scope of the Board of Education subcommittee would include proposed legislation. Senator Bunderson, on behalf of the subcommittee, said the subcommittee had concluded that the current statute was “woefully” inadequate. He said there was general agreement that the residential program was not in a good location to serve the population, and considered judgment was the location should be in the Treasure Valley, so the school could fill vacancies for teachers and allow better employment opportunities for parents who want to be near their children. He also said there was general agreement that education for visually- and hearing-impaired children were very different concepts and should be delivered separately.

Representative Bell asked Representative Jaquet if the subcommittee had considered the economic impact on the community of Gooding if the state property was shifted to a different service, and whether there were resources available to move the school to the Treasure Valley, “where everything is.” Representative Jaquet said she had requested the next subcommittee meeting be held in Gooding to discuss economic impacts. She said many families had moved to Gooding to be near their children, and the report should break down that number. She noted the importance of considering trends of the

- geographic differences—particularly in Northern Idaho;
- facility use—particularly the boys' dorm which had serious issues;
- comparative teacher salaries—were Meridian teachers paid comparable to Meridian district teachers or comparable to outreach teachers at ISDB?
- Meridian district program—would it move to a preschool through 2nd grade program?
- administrative issues—were costs comparable to other districts of similar size, and were there solutions to rising operating costs?

Committee Action

Representative Henbest said it was unusual for JLOC to be involved with two parallel studies. Since there were outstanding questions for the State Board of Education to consider, she asked if

JLOC would consider moving a decision on action to their next meeting and get an update from the board after it considered the OPE report. Representative Bell added that JLOC needed the board's report.

Senator Keough moved to postpone taking action on the OPE report until reviewing the work of the State Board of Education at the next meeting or at the beginning of the session, and then consider what actions to take on the report. Representative Bell seconded the motion.

In discussion, Representative Boe said she hoped the board would answer some of Representative Jaquet's questions, and Representative Field suggested formally transmitting the report to the State Board of Education. Mr. Mohan said the OPE report would be posted to OPE's website during lunch, and downloaded and distributed to the board this afternoon at its meeting in Lewiston.

Senator Kelly asked whether the board subcommittee would be prepared to address the committee on December 13th. Senator Bunderson said the board subcommittee would meet next week and try to put definition on some of the recommendations. He said the subcommittee's objective was to present its report to the State Board of Education on December 1 where the board will make its determination, and then the Legislature would consider it. In response to Senator Kelly's question, Senator Bunderson said the board would deliver a formal report to JLOC. Representative Henbest said it sounded like the board would be able to provide a report at the JLOC meeting on December 13.

The motion passed unanimously by voice vote.

REVIEW OF SCOPE: MANAGEMENT AT THE DEPARTMENT OF HEALTH AND WELFARE

Mr. Mohan discussed approaches to the Department of Health and Welfare management evaluation, including a survey. Representative Henbest requested that OPE examine communication between management and line staff. Mr. Mohan said the study would look at all levels of management. Senator Marley asked about the survey methodology. Mr. Mohan said the survey will be web-based and sent to a random sample of line staff, supervisors, and management in various departments. Mr. Mohan said the identities of respondents, as well as their completed surveys, will be kept confidential.

Representative Field moved to approve the scope of the Department of Health and Welfare evaluation. Representative Boe seconded the motion, and the motion passed unanimously by voice vote.

The committee broke for lunch at 12:15 and reconvened at 1:30.

OFFICE BUSINESS—WORKLOAD AND NEW REQUESTS

Mr. Mohan reviewed the workload of the office as it pertained to assigned evaluations, follow-up reports that needed to be conducted, and new requests for evaluation. He reviewed the two new requests for evaluation.

Co-chair Henbest called on Senator Hal Bunderson to explain his request for an evaluation of the Department of Correction. Senator Bunderson said the state was faced with growing budget pressures regarding inmate prison populations. In considering what to do, he said there had never been a comparison of public and private facilities. The Legislature could respond to these budget pressures on a more informed level if an evaluation of comparisons were done. In response to Senator Kelly's questions, Thomas Beauclair, Director of the Department of Correction, said the department had oversight responsibility of the private prison.

Mr. Mohan said there were two components of the request: comparison of both facilities and the effectiveness of programming, and suggested two phases:

- (1) Conduct a comparison evaluation. The comparison would take about 6 months with 2 higher level FTPs, 2 consultants who know capital planning, facility operation, and a third consultant for quality review of the work. He estimated the consultant costs at \$110,000 including travel.
- (2) Conduct an effectiveness evaluation.

Mr. Mohan said that unless the committee decided to set aside the Health and Welfare management study, there would not be FTPs for this evaluation until after February. Senator Keough said the committee could consider requesting additional funding for OPE to look at this study, much like it was done on Medicaid. Senator Kelly said she was concerned that work was already being done outside JLOC and did not want to duplicate it with OPE resources. Representative Field concurred and said the Judiciary and Rules Committees were looking at ways for savings. She requested the committee hold off on a decision and see what information becomes available by February.

Co-chair Henbest called on Marilyn Sword, Executive Director of the Idaho Council on Developmental Disabilities, to respond to the committee. Ms. Sword said responsibility of sheltered workshops shifted from the Department of Health and Welfare to the Division of Vocational Education, but Vocation Education did not have statutory responsibility for oversight of the function. Representative Bell asked if there was a specific problem with oversight, and whether the problem would impact sheltered workshops during the fiscal year 2007 budget setting. Ms. Sword said her concern was whether resources were used well.

Senator Marley moved to put both requests for evaluation on hold until there were staff resources available in February. As part of the motion, the co-chairs of JLOC would send a letter to the Education Committees to look into rule making concerns for sheltered workshops. Senator Keough seconded the motion.

Representative Boe said sheltered workshops were outside the scope of issues the Education Committee considers. Co-chair Henbest called on Cathy Holland-Smith, Analyst at Budget and Policy Analysis, to explain why sheltered workshops were moved. Ms. Holland-Smith said there were issues between the Department of Health and Welfare and the providers. JFAC moved the

funding into Vocational Education as a solution. She said Vocational Education was not a rule promulgating agency like the State Board of Education, and although Vocational Education had been working on sheltered workshops, it had not taken the issue to the board.

By unanimous consent, the committee amended the motion to send the letter to the State Board of Education and copy the germane chairs of the Education Committees and the Governor's office. The motion passed unanimously by voice vote.

OFFICE BUSINESS—FY07 BUDGET REQUEST

Mr. Mohan reviewed OPE's fiscal year 2007 budget request. He said there were two enhancements, one for workload increases that included 2 additional FTEs—an evaluator and an administrative person with technology skills, and the second for professional contractors. In response to a question from Representative Bell, Ms. Holland-Smith said the office did not currently have anything in its base for contractors.

Representative Field moved to support the director in moving forward in his budget request for fiscal year 2007. Representative Boe seconded the motion. Co-chair Henbest explained that support of this motion did not indicate an affirmative vote during the budget setting process. **The motion passed by voice vote. Representative Bell abstained from voting.**

The meeting adjourned 3:40 p.m.