

Minutes of the Joint Legislative Oversight Committee  
March 16, 2007  
Gold Room, State Capitol  
Boise, Idaho

Co-chair Senator Shawn Keough called the meeting to order at 7:35 a.m. Attending the meeting were Senators Edgar Malepeai, Elliot Werk, and John McGee, and Representatives Margaret Henbest, Maxine Bell, Donna Boe, and Clifford Bayer. Also present were Rakesh Mohan, Director and Margaret Campbell, Administrative Coordinator, and all other OPE staff.

Mr. Mohan introduced four new staff members to the Oversight Committee: Brekke Wilkinson, Research and Technology Assistant, Carrie Parrish, Research Assistant, and two performance evaluators, Sean Borzea and Jared Tatro. Mr. Mohan also recognized AJ Burns for her hard work with the office, indicating that today was her last day. The committee wished Ms. Burns well.

Co-chair Keough welcomed those in attendance, including:

Senators: John Goedde

Representatives: Speaker Lawrence Denney, Liz Chavez, Brandon Durst, Wendy Jaquet, Dean Mortimer, Mike Moyle, Bob Nonini, Donna Pence, JoAn Wood

State Board of Education: Scott Christie

Idaho Department of Correction: Brent Reinke

Public Charter School Commission: Tamara Baysinger

Idaho Council on Developmental Disabilities: Ron Enright

State Department of Education: Gary Lough

ITRMC: Kevin Iwerson

## MINUTES

**Representative Henbest moved to approve the minutes of the February 26, 2007, meeting and the March 6, 2007, meeting. Representative Bell seconded the motion, and it passed unanimously by voice vote.**

## COMMITTEE RULES

**Representative Henbest moved to approve the rules of the Joint Legislative Oversight Committee as written. Representative Bayer seconded the motion.**

Senator Werk asked about the amount of latitude the committee had in revising the rules. Co-chair Keough said the committee was guided by statute and all rules must fit within the parameters of that statute.

**The motion passed unanimously by voice vote.**

## **OPE WORKLOAD SUMMARY**

Mr. Mohan said there were two vacant positions in the office and he anticipated filling both quickly. The office had just finished two projects, average daily attendance and virtual schools, and was currently working on a health care cost study under the lead of staff member Ned Parrish, with work performed by consulting firms Mathematica of Washington D.C. and the University of Minnesota. These consulting firms will present their findings at a JLOC meeting sometime in June (Mathematica) and August (University of Minnesota).

Mr. Mohan addressed the importance of follow-up work and how it related to the independence, credibility, and purpose of OPE's work. The office had seven follow-up reports they would have ready for the June or August JLOC meetings. The follow-up projects would take two weeks to two months to complete:

- *Higher Education Residency Requirements*, released 1/04
- *School District Administration and Oversight*, released 1/04
- *Public Education Technology Initiatives*, released 1/05
- *Child Welfare Caseload Management*, released 2/05
- *Idaho School for the Deaf and the Blind*, released 10/05
- *State Substance Abuse Treatment Efforts*, released 12/05
- *Management in the Department of Health and Welfare*, released 2/06

Mr. Mohan said there were two reports that did not require follow-up work and could be closed: *Strategic Planning and Performance Measurement* (12/04) and *Lessons Learned from ISIMS* (8/06). JLOC closes reports once the agency has demonstrated enough progress and sufficient improvement in implementing report recommendations.

Representative Henbest said there were concerns in JFAC that agencies had not changed their performance measures to be meaningful to budget writers. She wondered if the executive branch could more thoroughly address reporting criteria to increase the quality of performance measures. Mr. Mohan said that the Division of Financial Management had taken the first step to address this issue, but more attention could be given to working with germane committee chairs. Because so many individuals were new to their position, Co-chair Keough suggested sending a copy of the statute and a survey to the Governor, agency directors, and germane committee chairs with questions about the value and awareness of how to implement performance measures.

**Senator McGee moved that OPE send a packet of information and a letter from JLOC on performance measures to the Executive Branch this spring and another to the Legislative Branch in the fall. The motion was seconded by Representative Henbest, and it passed unanimously by voice vote.**

**Representative Henbest moved to close the ISIMS report. The motion was seconded by Representative Boe, and it passed unanimously by voice vote.**

Senator Werk asked for clarity about the workload. Mr. Mohan said the office could take two new projects in addition to work on the follow-up reports. Representative Bell asked about timing in receiving a supplemental. Mr. Mohan said he would not need a supplemental if JLOC

selected two studies that were limited in scope, but larger studies would require additional funds. He said the transportation request, for example, would require additional funds for staff and expert consultants that could not wait until the January 2008 supplemental process.

## **TOPIC SELECTION**

*Sheltered Employment Services*, submitted by Representative Henbest

Mr. Mohan suggested that sheltered workshops could be removed from the list of potential evaluations because the requestor had indicated that timing may not be right for a study. He added that rules had been promulgated and a taskforce assembled to address the issue. Representative Henbest suggested that this topic be put on hold, but she did not want to lose sight of the request because there were gaps in service.

*Average Daily Attendance and Virtual School Operations*

Members discussed requesting studies related to the recently released reports on average daily attendance and virtual charter schools. Several committee members highlighted the interrelatedness of issues on school funding.

Representative Bayer asked whether consultants would be required for a study on the funding formula, or if the study could be done in-house. Mr. Mohan said that OPE would need to hire consultants.

Representative Boe said she felt school funding was an important issue. She questioned whether the state should use the same formula to fund virtual schools as it uses to fund traditional schools. Additionally, because the formula had not been reviewed in years, it may not be the best way to fund traditional schools. Representative Henbest said a number of significant changes had occurred since the funding formula was last reviewed including population growth, establishment of charter schools, and the shift of education funding from property taxes to sales taxes.

Representative Bell cautioned that opening the funding formula could potentially result in a major policy change. She indicated that a large group, including district superintendents and other stakeholders, developed the current formula. She recommended including germane committee chairs and others affected by proposed changes in the process.

Mr. Mohan indicated that an evaluation of funding issues could be complex and suggested the committee consider a phased approach. Senator Werk suggested focusing first on the funding mechanism for virtual schools and thought it would be useful to look at their expenditures at the same time. Representative Henbest said it would be valuable to review financial issues at virtual schools, but stressed the importance of examining the overall fairness of the formula.

Representative Boe stated that if the initial review focused on the funding formula, other issues related to virtual charter schools should be addressed in a future study. Representative Henbest indicated that these issues could include student outcomes and testing. Senator Keough thought

it would be useful to have OPE staff develop a scope for the various phases of the project if the topic was selected.

Representative Bell said work on the average daily attendance report and the virtual school report needed to be completed. She thought that combining the two reports into one study that more closely examines the funding formula would work well, as long as the study was done right and thoroughly.

*Department of Correction Versus Private Prison Costs*, submitted by Representative Bolz

Representative Henbest said a request for prison cost comparisons had been on the list for a year and a half. Because there was so much happening with prison issues, she questioned the relevance and timeliness of the issue. She suggested returning the request to Representative Bolz and asking him to re-evaluate the relevancy of the issue.

*Higher Education Student Indebtedness*, submitted by the Pro Tem and the Speaker

Representative Henbest said the request to study student indebtedness involved higher tuition costs and a lack of scholarships, but also related to the heavy indebtedness of the American public in general. She asked whether a study would be timely and worthwhile; the Legislature was already debating issues of high costs and a lack of scholarships. Because there was very little the Legislature can do about personal indebtedness, she suggested returning the request to Legislative Council and asking them to re-evaluate the relevancy of the issue.

Co-chair Keough said she had asked OPE for a preliminary scope of available information on Idaho's institutions and national data to help address this issue. OPE could provide the information to the requestors for re-evaluation and restating of the questions to be studied.

*State Broadband/Internet Services Allocation*, submitted by Representative Durst

Representative Bell asked if there were others in the state that could pull together the information requested. Mr. Mohan said he could contact ITRMC and other state agencies to find out what information was available, and bring it back to the requestor. Senator Werk said ITRMC appeared to be an appropriate place to start. He said the troublesome part would be getting information from school districts. Perhaps the State Board of Education would be available to help. Representative Henbest said the issue was timely; the Governor was trying to consolidate information technology and a preliminary scope of available information could provide the committee with a sense of what was available.

*School District Consolidation*, submitted by Representative Durst

Senator Malepeai noted there was legislation already in place to address consolidation. Senator Werk suggested sending a letter to the Board of Education about the request and asking whether the board may be able to do such a study. He also suggested asking a response from the board. Representative Bell warned that the board may respond with a request for more money.

*Transportation Issues*, submitted by the Pro Tem and the Speaker

Senator McGee noted that if the current bill passed, Idaho would be \$450 million into the Grant Anticipation Revenue Vehicle (GARVEE) bond project. The Governor had made it clear in his State of the State address that he was not interested in other ways to fund transportation until efficiencies were found at the Idaho Transportation Department (ITD). Senator McGee indicated that these two reasons were why he would raise this request to the top of the list. He noted the letter from the Speaker and the Pro Tem committed to support additional funding if the study took place.

Representative Henbest asked how OPE would suggest scoping the study, what part of that scope would be assigned to consultants, and OPE's time parameters. Mr. Mohan said he had done some background work using information from the State of Washington (King County and the Washington legislature), and talking with members of the Idaho Legislature to gain a better understanding of the questions. He noted that the request was huge and that interests among legislators varied ranging from a focus on the entire department and how it operated, to just a focus on the GARVEE bond project. He said there was some interest in a financial audit, which would be more appropriate for a CPA. He said there were also requests to look at how ITD selected and completed statewide improvement projects (STIP). Mr. Mohan said that answers to these questions would require expertise similar to that currently in place for the health care cost study.

Mr. Mohan suggested two options for the study: narrow the scope or conduct the study in phases. He noted that a 1998 study in Washington cost \$378,000 for consultants to do an evaluation of the entire department. In other studies, with several experienced staff, consultant costs were about \$150,000–\$200,000 and took 7–8 months. A full study could look at all aspects of the department: management, needs assessments, prioritization, economic analyses, contracting, contract monitoring, and project delivery.

Representative Bayer agreed that no one wanted to be bogged down in a quagmire, and said there were a lot of unanswered questions, compounded by turnover at the department, mutations to programs, and questions about overall funding and the GARVEE bond project. He noted that transparency and light would be good for everyone.

Mr. Mohan said scoping was critical. He noted that in 2003, the Legislature requested an audit of the school districts. After much discussion with leadership, JLOC, and germane committees, the office released the request in five reports. Mr. Mohan suggested a similar approach for transportation.

Representative Henbest asked if Mr. Mohan could provide JLOC with information on outcomes from the studies done in Washington. She said the committee wanted studies that would allow them to make policy decisions. For this study to be valuable, she said it should be focused and timely. She said JLOC needed to be careful about the study questions and consulting costs.

Senator McGee said that just a study of the transportation department would be a waste of resources. He said the study should involve the GARVEE bond project; the study could be a good focus point on how GARVEE related to the department and other contracts it implements.

Co-chair Keough said she had a “chicken and egg” type of question. Provided there was enough interest in the transportation study, JLOC needed to scope it. If the committee selected this request, they needed to consider funding issues before session ended next week. Could the committee ask for money when the scope had not yet been decided?

Senator McGee suggested that if JLOC selected this study, it could provide the budget committee with a dollar range for a study of transportation and GARVEE. He said JLOC may not need to have all the details, but they could provide enough information for the budget committee to approve funding.

Senator Werk said he was most interested in the ongoing funding shortfalls at ITD and its request for an additional \$200 million to supplement revenue. He said he did not want to mix ITD funding and GARVEE because that may result in a study too big for OPE to accomplish without a lot of consultants.

Representative Bayer said there may be a connection between the two efforts. He envisioned a proposed scope of ITD with and without GARVEE. He thought the Governor’s issue of tax and fee proposals was a separate issue and could also be a focal point. He said JLOC needed specific verbiage to define the scope and create a focused audit.

Senator McGee said he thought a scope focused on the funding mechanisms of the department was an important component. While he had GARVEE on the mind, he said it may not necessarily need to be the focus, but he believed there was a connection between it and the department’s funding issue.

*Emergency Communication Commission*, submitted by Senator David Langhorst

Mr. Mohan provided a summary of the request. Representative Henbest said she was glad to see the request. She had questions in terms of readiness and communication. She said the budget committee was requested to fund millions without a guarantee that agencies can talk to each other. She also questioned whether there was a connection between the broadband issue and communication across the state.

Co-chair Keough restated that the office had resources for two projects. Mr. Mohan explained that while larger projects like ITD would require outside contractors, he would try to minimize costs by using in-house staff. He said that even if contractors did all of the field work, OPE would be heavily involved in managing the project.

**Representative Henbest moved that OPE return the request, *Department of Correction Versus Private Prison Costs*, to its requestors for further consideration and relevancy. Senator McGee seconded the motion, and it passed unanimously by voice vote.**

**Representative Henbest moved that OPE return the request, *Higher Education Student Indebtedness*, to its requestor with any preliminary work done by OPE, and ask if they want to reevaluate the issue for a future request. Senator McGee seconded the motion, and it passed unanimously by voice vote.**

**Representative Henbest moved that OPE send the request, *School District Consolidation*, with a letter from the co-chairs to the Department of Education and the Board of Education indicating that JLOC cannot address the issue at this time and request the agencies, if they have the resources, to conduct a cost-benefit analysis. The letter should instruct the agencies to report back to JLOC. Representative Bell seconded the motion, and it passed unanimously by voice vote.**

**Representative Henbest moved to hold the request, *Sheltered Employment Services*, until the next topic selection cycle so JLOC can reevaluate the relevancy of the request. Senator McGee seconded the motion, and it passed unanimously by voice vote.**

**Representative Henbest moved that OPE develop a preliminary scope for the request, *Emergency Communication Commission*, based on available information. Representative Bell seconded the motion.**

Mr. Mohan clarified that work on the scope would focus on what kind of information was available, not an analysis of the issue.

**The motion for OPE to do a preliminary scope of the Emergency Communication Commission passed unanimously by voice vote.**

**Senator McGee moved that OPE conduct a study on the organization and performance of the Idaho Transportation Department, contingent on funding this session, and requested OPE to narrow the scope with input from the Pro Tem, the Speaker, and the Senate and House Transportation Committee chairs. Representative Bayer seconded the motion.**

Representative Bell asked Senator McGee how JFAC will fund this study without a scope in place. The committee discussed a supplemental appropriation in January 2008. Mr. Mohan indicated that he would not be able to start the study until funds were in place.

Co-chair Keough suggested obtaining the required information for the budget committee by visiting with leadership and drafting a scope for JLOC review by Tuesday, March 20. Should the committee feel comfortable and make a decision on the scope, the budget committee could decide on an appropriation request the following day. Mr. Mohan said he would do his best to come up with a scope and costs by contacting leadership, germane chairs, relevant legislators, and officials in Washington state.

Representative Bayer said the motion considered that costs could be a limiting factor and should be granted on a one-time basis. Senator Werk indicated that a preliminary scope would be approved next week, but wondered when JLOC would meet to consider a more focused scope.

He suggested appropriating \$100,000 as a start and then supplementing that amount in January 2008. Co-chair Keough said JLOC could consider a more focused scope at a meeting in June.

**The motion for OPE to study the organization and performance of the Idaho Transportation Department passed unanimously by voice vote.**

**Representative Boe moved that OPE conduct a study on average daily attendance in public education and virtual schools. Representative Henbest seconded the motion.**

Representative Boe said she wanted a study to focus on the relationship between the funding formula and virtual schools and would like a scope developed for discussion at the June meeting. Representative Henbest said she would like to see how financing of the two overlap and questions answered about virtual school outcome measures. Representative Bayer wanted to make sure the topic stayed focused on targeted questions to avoid falling into the pool of the funding formula. He said he felt this outcome would be possible with an approved scope in June.

**The motion for a study on average daily attendance in public education and virtual schools passed unanimously by voice vote.**

The meeting adjourned at 10:00 a.m.