Minutes of the Joint Legislative Oversight Committee
November 30, 2011
Capitol Auditorium
Boise, Idaho

Co-chair Senator Elliot Werk called the meeting to order at 2:30 p.m. Attending the meeting were Senators Jim Hammond (by phone) and Dean Mortimer, and Representatives Cliff Bayer (co-chair), Maxine Bell, Elaine Smith, and Shirley Ringo. Senator Michelle Stennett arrived to the meeting after it started. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator, and all other OPE staff. Dr. Kathleen Sullivan, consultant on the study for equity in higher education funding, was also present by phone.

Senator Werk welcomed the audience, including:
Senator Joe Stegner
Representatives Eric Anderson, Wendy Jaquet, and John Rusche
Mike Rush, Executive Director, Office of the State Board of Education
Bob Kustra, President, Boise State University
Arthur Vailas, President, Idaho State University (by phone)
Anthony Fernandez, President, Lewis-Clark State College
Marty Peterson, Special Assistant to the President, University of Idaho
Richard Armstrong, Director, Department of Health and Welfare
Jeff Anderson, Director, State Liquor Division
Roger Brown, Deputy Chief of Staff, Office of the Governor
Scott Phillips, Deputy Controller, Office of the State Controller

Co-chair Werk announced that OPE had received the 2011 Alva and Gunnar Myrdal Government Evaluation Award from the American Evaluation Association, which recognized an individual or group whose evaluation work was highly influential in government context. He said he was pleased to have such a good group in Idaho.

REPORT RELEASE: *EQUITY IN HIGHER EDUCATION FUNDING*

Representative Bell moved to receive the report *Equity in Higher Education Funding*. Representative Ringo seconded the motion, and the motion passed unanimously by voice vote.

Mr. Mohan said the study looked at the internal equity of the four, four-year higher education institutions. He thanked the institutions and the State Board of Education for their input and cooperation. Their responses to the evaluation were at the end of the report along with the Governor's response. Maureen Brewer and Lance McCleve, senior evaluators, summarized the report.

The evaluators said the approach used to fund Idaho's four-year higher education institutions had not worked to resolve stakeholder concerns about equity. Stakeholders have long expressed concern that the funding levels among the institutions were not equitable, but they have not been able to find a resolution. The decades-old debate had occurred within a framework that did not answer key policy questions about equity. The evaluation sought to identify the root causes of the persistent equity concerns while recognizing the political context in which policy and funding decisions are made. Until the State Board of Education defines a standard for equity, it cannot determine whether differences present in per student funding levels among the institutions constitute inequity. OPE recommended the board develop criteria for defining equity and then develop a plan based on those criteria to correct for any inequity should it exist.

Representative Ringo asked whether money from a 2006 equity adjustment settlement had been applied to the institutions' base budget. Ms. Brewer said that the funds went into the base budgets. Representative Ringo asked Mr. McCleve to comment further on the seriousness of the numbers in the exhibit displaying a Gini coefficient analysis, which showed that funding differences among the four institutions were increasing. Mr. McCleve explained the fundamentals of the Gini coefficient calculations. He said an upward trend line of the graph indicated the differences among the institutions were increasing.

Representative Bell said OPE had produced a marvelous report with lots of math she had never heard of. She said that equity was a policy issue, not a funding issue, and referred to an agreement with the board in 2005 that the board would begin to develop policy. She said that if the board had done what it said it would do in the ensuing years since 2005, the state would have a plan and some equity. She said that although the Legislature funded extra money in 2006 for equity, the state does not have funds to do it again. The State Board of Education needed to define equity and how to achieve it through existing funds.

Senator Mortimer said the report confirmed a feeling most legislators have had about diversity in funding and a recommendation that the state establish standards in which funding is distributed to each institution. He asked about best practices for the board to consider when developing a policy. Mr. McCleve said the methods for determining equity are varied. Some states use simple statistical analysis, some use annual detailed cost studies, and some use standards like physical plant size. He said that although most states struggle with equity, standards reflect each state's priorities. Ms. Brewer added that the 2001 MGT study evaluated equity on many standards; however, OPE did not want to dictate to the board any specific standards because these standards should reflect the board's priorities.

Co-chair Werk called on representatives from each of the four-year higher education institutions to address the committee. Each of the representatives complimented OPE on the quality of its research and reporting. The committee heard from Dr. Arthur Vailas, President, Idaho State University (by phone), who indicated that the costs of health and engineering programs are rising faster than inflation for humanities programs. Dr. Vailas said that for Idaho to remain competitive and attractive to its citizens in the programs it offers, equity should be more program focused because programs relate to Idaho's job pool.

Mr. Marty Peterson, Special Assistant to the President, University of Idaho, said the equity issue has been an issue forever and will likely be an issue forever. Mr. Peterson also said that Idaho's funding was fairly weighted for expensive research and graduate programs. He said that in the

MGT study of funding, the University of Idaho was the least well-funded institution in the state when compared with peer institutions of similar roles and missions.

Dr. Anthony Fernandez, President, Lewis-Clark State College, said that funding of higher education should be fair and equitable for all students. He questioned some of the weights for programs in the current EWA formula. He said he would gladly participate in the development of performance-based funding if it was consummate with the board's goals for higher education.

Dr. Bob Kustra, President, Boise State University, said more attention should be given to rising enrollments. Dr. Kustra said the state has an equity formula in place that worked, even though it did not work well. He appreciated the need for the State Board of Education to come up with a new formula, but he did not think the state should lose sight of the fact that it had a formula all along and the Legislature chose not to fund it, putting certain universities in peril during significant growth. He said that 71 percent of all new students enrolling in a four-year institution in Idaho in the past four years chose to enroll at Boise State. Because funding was reduced at a flat rate, the impact on Boise State students was a 29 percent drop in state funding per weighted student FTE, which represents the largest per student reduction in state assistance among the four institutions.

Representative Ringo asked Dr. Kustra about factors for performance measures. Dr. Kustra said the committee could look at enrollment, graduate programming, research at the undergraduate level, retention, graduation rates, as well as other factors that made a university successful.

Co-chair Werk called on Dr. Mike Rush, executive director, State Board of Education, to address the committee. Dr. Rush said that OPE always did a nice job. He agreed with Representative Bell that it was the board's job to establish policy. The board had signed off on a 2002 agreement declaring equity, which demonstrated effort. He disagreed with the report's assertion that the enrollment workload adjustment formula was insignificant in addressing the problem. The report's Gini coefficient exhibit showed a decline about the same time the board increased the formula's cost factor from 33 to 67 percent. If the trend continued over the next two years, Dr. Rush said the Gini coefficient would be equal to the 2002 coefficient when equity was declared.

The Governor's office declined an invitation to comment.

REPORT RELEASE: *IDAHO'S END-STAGE RENAL DISEASE PROGRAM*

Representative Bayer moved to receive the report *Idaho's End-Stage Renal Disease Program*. Senator Mortimer seconded the motion, and the motion passed unanimously by voice vote.

Mr. Mohan thanked the Division of Vocational Rehabilitation, the State Board of Education, and the Department of Health and Welfare for their input and cooperation. Hannah Crumrine, senior evaluator, summarized the report. She said the Division of Vocational Rehabilitation lacked oversight, procedures, and safeguards necessary to enforce eligibility requirements of the end-stage renal disease program. Consequently, some participants have received payments for services they were not eligible to receive.

When the program was established in 1970 within the division, other forms of assistance did not exist. Today, Medicare, Medicaid, and private insurance companies cover the cost of most end-stage renal disease expenses. As a result, the program may no longer be relevant because other forms of financial assistance are available. The Legislature may wish to consider three options for the future of the program: (1) phase out the program gradually, (2) keep the program intact, or (3) move the program to the Department of Health and Welfare.

Representative Ringo said she was concerned about the percentage of end-stage renal disease patients who did not have other options, and Representative Smith recommended the program be phased out gradually to allow current participants time to make financial arrangements.

Co-chair Werk called on Don Alveshere, Administrator, Division of Vocational Rehabilitation, to address the committee. Mr. Alveshere said he appreciated the quality and work of the study. He agreed with the report that the mission of Vocational Rehabilitation did not fit with the renal program, and indicated that the eligibility determination involving Medicare and Medicaid better suited the Department of Health and Welfare. However, the division was adjusting procedures for the eligibility determination process and talking to Health and Welfare about resources for program participants.

Mr. Alveshere said he agreed with the report's option to phase out the program and with the Governor's proposed date of June 30, 2013. Addressing Representative Smith's concern, he said the division could allow the continuation of services for current participants but not allow new participants.

The Governor's office and the Department of Health and Welfare declined an invitation to comment.

Representative Ringo asked for information on her concern about program participants falling through the cracks. Senator Mortimer said he wanted to hear about the division's progress in improving oversight in the determination process. Representative Bell said that some of the program discrepancies could cause problems with the federal government.

Representative Bell moved to conduct a follow-up study in three months on whether the renal disease program was compliantly administered. Senator Mortimer seconded the motion.

Senator Stennett said she wanted to know how many staff administered the program and how much effort would be needed to train them to consistently apply the eligibility determination process. Mr. Mohan said he would keep the committee informed about program compliance and would offer to meet with the germane committees and get a sense of whether legislation would be introduced to phase out the program.

The motion to conduct a follow-up study on the renal disease program passed unanimously by voice vote.

Mr. Alveshere said the compliance issues would be easy to implement. He said seven staff provided services as a small percentage of their time and seven other staff oversaw the work.

Co-chair Werk indicated the committee needed to discuss whether action should be taken on the report about equity in higher education funding. **Senator Mortimer moved to conduct a follow-up review on equity in higher education funding in one year. Representative Bayer seconded the motion, and the motion passed unanimously by voice vote.**

FOLLOW-UP REPORT RELEASE: *DISTRIBUTION AND SALE OF LIQUOR IN IDAHO*

Representative Bayer moved to receive the follow-up report *Distribution and Sale of Liquor in Idaho*. Senator Stennett seconded the motion, and the motion passed unanimously by voice vote.

Mr. Mohan thanked the Liquor Division for its input and cooperation. Jared Tatro, senior evaluator, summarized the report. He said the division was concerned about collecting zip code information from customers in determining the area sizes that stores served. OPE had recommended the division pilot the program to see how customers responded.

The division needed to step up efforts to evaluate all state-operated stores to see whether stores would benefit from conversion, expansion, relocation, or closure. The original report found the division could maximize profits by converting 13 state-operated stores to contracted stores. This conversion could save the state $700,000 annually in operating and personnel costs. Implementation of this recommendation had become more important with the recent privatization of Washington’s liquor system. Idaho could potentially see a drop in profit for stores along the Washington border if the newly privatized markets compete with Idaho’s liquor prices.

Co-chair Werk called on Jeff Anderson, Executive Director of the Idaho State Liquor Division to address the committee. Mr. Anderson thanked OPE for its effort in the evaluation and follow-up study. He said the process had provided the division with meaningful direction but expressed concern that the implementation status of report recommendations did not adequately reflect the work of the division.

Mr. Anderson discussed the division’s efforts to implement the recommendation to conduct formal evaluations of state-operated stores. He said that although his written response had not been clear, he had outlined the process the division used to evaluate stores. Referring to another recommendation to ask customers for home zip codes, he said he would pilot the program beginning in January at select locations. Mr. Anderson also gave JLOC two handouts of division analysis: (1) potential sales based on a three-mile trading area for stores in Weiser, Emmett, Middleton, and Star, and (2) projections for Washington’s liquor prices once its sales were privatized in June 2012.

Co-chair Werk thanked Mr. Anderson for his comments and encouraged him to more adequately communicate his efforts to OPE in the future. He said the review left JLOC at a disadvantage in getting complete information from the division.

Representative Bell asked Mr. Anderson whether he would be evaluating state-operated stores for conversion to contract stores as their leases came up for renewal, adding that she did not expect him to break an existing lease. Mr. Anderson said he would, adding that he had not tabled a decision to convert a state-operated store in Weiser and was attempting to negotiate with a contractor. He said the division had an interesting product to make available but the conversion was also a logical option.

Representative Bayer said he wanted further clarity on the division's implementation of recommendations. He moved to conduct a follow-up review in one year. Representative Bell seconded the motion, and it passed unanimously by voice vote.

The committee discussed concerns about the Department of Health and Welfare's claims processing system administered by Molina. Members said they generally saw a lack of change in the problems. Mr. Mohan said the office was working on a follow-up review of the system and surveying 5,000 providers for input. He said the report would be released in January.

The meeting adjourned at 4:55 p.m.