

Minutes of the Joint Legislative Oversight Committee  
March 12, 2012  
Capitol Auditorium  
Boise, Idaho

Co-chair Representative Cliff Bayer called the meeting to order at 4:07 p.m. Attending the meeting were Senators Elliot Werk (co-chair), Jim Hammond, and Dean Mortimer, and Representatives Maxine Bell and Elaine Smith. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator, and other OPE staff.

Co-chair Bayer welcomed the audience, including:

Senators Monty Pearce and Tim Corder

Representatives Dell Raybould, Marv Hagedorn, John Rusche, and Christy Perry

Brandon Woolf, chief of staff, Office of the State Controller

Richard Armstrong, director, Department of Health and Welfare

Curt Fransen, director, Department of Environmental Quality

Brian Oakey, deputy director, and George Robinson, division administrator, Department of Agriculture

Daniel John, tax policy administrator, Idaho Tax Commission

Mark Little, administrator, Division of Purchasing

Vicki Tokita, administrator, Division of Human Resources

**APPROVAL OF FEBRUARY 27, 2012, MINUTES**

**Senator Hammond moved to approve the minutes of the February 27, 2012, meeting. Representative Smith seconded the motion, and it passed unanimously by voice vote.**

**TOPIC SELECTION**

Mr. Mohan introduced eight requests for evaluation. He had assigned each request a number that corresponded with project size and indicated that the staff could take up to 12 points in requests.

- **Best practices for state contract management (project size 2)**—best practices could help the state develop a strong framework for contract development and management as well as vendor management, particularly since the state may be contracting soon for projects such as K–12 technology, Medicaid managed care, and health insurance exchange for Medicaid readiness. The study was requested by Representatives John Rusche, Fred Wood, and Jeff Thompson.
- **Analysis and comparison of Idaho’s tax rates with other states (project size 2)**—an independent, objective comparison would help the Senate Local Government Committee determine whether Idaho can compete with other states in attracting companies. The study was requested by Senator Tim Corder, on behalf of the Senate Local Government and Taxation Committee. Representative Ringo and Senator Werk asked questions about an

analysis of Idaho's tax rates. Mr. Mohan said that evaluators would likely develop a checklist that policymakers could use when comparing taxes for Idaho and other states because taxes and tax rates vary among states.

- **State employee compensation models and employment barriers (project size 3)**—the state had lost a number of positions and a number of employees in the past four years. Some employees left for higher paying jobs in the private sector. A study could help the state retain employees. The study was requested by JFAC members Senator Joyce Broadsword and Representatives Marv Hagedorn, Wendy Jaquet, and Shirley Ringo.
- **Impact of EPA's control and oversight of DEQ water programs (project size 3)**—a study could identify impacts to state sovereignty and control of its water resources, as well as the fiscal impacts and burdens on Idaho businesses and citizens. The study had been amended into two parts: an initial study would include the first three questions from the request plus applicable parts of question six. After the initial study was completed, JLOC could determine whether an additional study was needed to answer questions four and five with applicable parts of question six. Also, the initial study would help OPE determine the extent to which consultants would be needed to complete the second part. The study was requested by Speaker Lawrence Denney, Senators Monty Pearce and Jeff Siddoway, and Representatives Dell Raybould and Ken Andrus.
- **Legislative oversight and coordination of state-funded technology infrastructure (project size 2)**—a study could determine whether the Legislature has appropriate oversight and whether planning and coordination exist to prevent duplicate efforts and ensure all areas of the state have access to the technology structure. The study was requested by Senate Finance Committee vice chair Senator Shawn Keough.
- **State law and policy comparisons for traditional and charter public schools (project size 2)**—a study could look at the differences and outcomes in statute, funding of facilities, and auditing standards between traditional schools and charter schools. The study was requested by Senate Finance Committee vice chair Senator Shawn Keough.
- **Teacher recruitment, attrition, and retention in the state's K–12 public schools (project size 3)**—a study could identify challenges and opportunities for recruitment and project future needs for educators. Through an amendment to the request from Senator Hammond, the study could also report on class size variations. The study was requested by Senator John Goedde, on behalf of the Senate Education Committee.
- **Foster care program of the Department of Health and Welfare (project size 3)**—a study would look at the policies and procedures for placing children into and removing them from foster care. The study was requested by Representatives Mike Moyle and Christy Perry.

*Senator Stennett and Representative Ringo joined the meeting in progress.*

Senator Werk asked to direct a question to Senator Hammond. He asked whether the amendment to the teacher recruitment request was vetted through the Senate Education Committee. Senator Hammond said the request was vetted through the committee chair. Senator Werk asked whether the student-teacher ratio was complementary to a study of attrition. Senator Hammond said a study of teacher attrition could look at the actual size of the classes, which may affect teacher retention. A student-teacher ratio measured the number of students in the district relative to the number of certified staff—but did not reflect actual class sizes.

Co-chair Bayer invited Senator Tim Corder to speak to his request. Senator Corder said the Senate Local Government and Taxation Committee had heard from many organizations that particular Idaho taxes were higher than in other states, and consequently, Idaho companies could not be competitive. Idaho had never had the ability to weight all taxes and compare them with other states' weighted taxes. He said he was requesting an analysis and comparison of Idaho's tax rates with other states for committee use in making informed policy decisions.

Senator Hammond asked what the Local Government Committee would get from an evaluation that it did not get from publications showing Idaho's tax comparisons. Senator Hammond also questioned whether an evaluation would be able to identify exemptions relative to other states. Senator Corder said the publications compared a few taxes, but the taxes were not weighted. By weighted, he gave an example—was the value of Idaho's homeowner's exemption the same in a state that did not have a sales tax? An evaluation may not provide all the answers, but it may help him frame the right questions.

Senator Hammond said that perhaps the committee needed templates for good sound tax policy by which it could measure different exemption requests or tax policy issues and decide whether a particular issue fit long-term goals. Senator Corder agreed and said the real heart of the issue was that Idaho needed to show consistency in the application of tax policy. Future considerations of tax policy would benefit from a template, which could produce a consistent, synergic, and systemic nature of good tax policy.

Representative Ringo said that when considering tax policy, policymakers should consider how they value certain needs of the state. She cited an example of JFAC taking a perceived need to the Revenue and Taxation Committee to address. She said she understood Senator Corder to say that policymakers should live within the means defined in tax policy. She suggested setting revenue according to what policymakers' value. Senator Corder said that good sound tax policy was the basis of budgetary policy. He talked about policies passed by germane committees that were never funded, and indicated that policies had been passed because the state did not have a long-term tax policy in place.

Senator Werk asked whether OPE staff were capable of providing a relative value system. Mr. Mohan said he did not know much about the subject matter but hoped to provide a checklist for germane committees to consider when examining tax policies. He said he would also create a template that considered relative value. The office had the capacity to do much of the work in-house with a small amount of expert consulting.

Co-chair Bayer invited Representative John Rusche to speak to his request. Representative Rusche said the state had experienced high cost initiatives for contracts that did not turn out as envisioned. In retrospect, many aspects of contract management could have been done better. The Oversight Committee had released several reports on the lessons learned from contracts that had not used a standard approach and had not been written or managed well. He met with the Department of Administration to understand the standard way of developing an RFP with appropriate expertise. However, he found that the department was only charged with making sure the public bidding process followed law—the departments were on their own for developing and managing contracts. This process did not assure a standardized appropriate contracting method. He was interested in a checklist for developing state contracts, particularly large contracts, that assured expertise, checkpoints, deliverables, and incentives were included in the contract, protecting the state and ensuring that underperformance was not paid.

Co-chair Bayer invited Representative Marv Hagedorn to speak to his request. He said all the sponsors of this request were from JFAC. During budget hearings, departments told JFAC that they could not promote or keep technically skilled or experienced employees in their jobs at the current rate of pay. From a high-level perspective, every department was gaming the system to keep good employees by moving them from a technical position to a supervisory or management position with higher pay. The state had apparent roadblocks in the Hays Group method or the employee management system; department heads could not use either approach to meet requirements and keep salaries competitive. Although departments did not receive a CEC last year; they returned \$17 million that was earmarked for employee compensation. The money could have been used to increase the pay of snowplow drivers who were on food stamps and nurses with special technical skills or scientists at DEQ who were leaving for a 33 percent increase in salary.

Representative Ringo said that after four years of revenue challenges, the state had reached a point of life support. Idaho Codes outlined how employees should be compensated, particularly those who were performing. This compensation had not been occurring, and in addition, employees were forced to take furloughs. She referred to the Compa Ratio provided with the request that shows the ratio of what the state actually compensated compared with policy. When the ratio was 80 percent or below, the state was not doing its job well. An evaluation would identify barriers to recovery, options for recovery, the number of positions lost in the past four years, and the number of employees leaving for higher paying positions.

Co-chair Bayer invited Senator Monty Pearce to speak to his request. Senator Pearce said water in Idaho was sacred. The objectives, priorities, and requirements of Idaho water policy were established by standards, impairment determinations, and the establishment of total maximum daily loads. Each of these areas was subject to oversight and control by the Environmental Protection Agency (EPA), creating a situation where EPA had more influence in setting water quality policy than Idahoans. Many believe that managing Idaho's water was most cost-effective and best protected by state and local officials working collaboratively with local communities and stakeholders.

Representative Dell Raybould said he believed the Department of Environmental Quality (DEQ) had a better opportunity to serve Idaho than the EPA. DEQ had developed into a consumer-

friendly department, and the public had turned to the department for problem solving. For that reason, DEQ, in cooperation with local governments and citizens of the state who were water users, had a better ability to keep water quality at standards that Idaho expected. An evaluation could review six issues to provide Idaho with background information, to coordinate efforts with EPA, and to give DEQ primacy over administering Idaho's water.

Co-chair Bayer confirmed with Representative Raybould that an initial evaluation could look at the first three issues and the sixth issue as it related to the first three. Representative Raybould said that approach was acceptable to the requestors.

Senator Hammond said that Senate Concurrent Resolution 116 passed out of the Environment, Energy, and Technology Committee seeking primacy and a joint task force to work with DEQ to assume primacy on water issues. Why would policymakers also need an evaluation? Representative Raybould said the resolution was about the NPDES permitting process; it did not address several fundamental aspects of Idaho's water quality policy. The JLOC request would look at the other water quality problems and administrative guidelines needed in Idaho.

Senator Hammond said he understood that when Idaho assumes primacy, it would be over any clean water act permitting that was now done by EPA, making the effort duplicative. If the task force meets this summer and generates a route to fund primacy—it would be a faster route than an evaluation. Representative Raybould said he understood the resolution only addressed NPDES. He suggested that JLOC look at the senate concurrent resolution (SCR) and analyze it to see whether the other water quality problems were covered. Senator Pearce said the request for evaluation was a different issue than the resolution—the evaluation would not interfere with the SCR. He said the requestors needed the evaluation part to get eventual control.

Co-chair Bayer noted that Senator Keough was not in attendance to address her requests, but the committee had heard from her at the last meeting. Senator Geodde was not in attendance to address his request, so Co-chair Bayer asked whether Senator Hammond had any comments. Senator Hammond said he did not have any follow-up and when opened to the members, they did not further discuss the request.

Co-chair Bayer invited Representative Christy Perry to speak to her request. Representative Perry said she was not targeting one case but a multitude of cases in the foster care program. She cited several examples of potential problems and indicated that she had discussed her concerns with the department director. She said the director wanted to look at the program in light of her concerns, and she would like OPE to conduct an evaluation because it would be neutral and could look at the process and protocols. Taking a child out of a home was an action that was almost irreparable in the trauma he or she experienced. Government had very few people who could protect a child's rights and it needed to make sure the protection was done correctly.

Senator Werk said the foster care request did not include a request for best practices. Representative Perry said she supported looking at best practices, and Mr. Mohan said OPE often looks at best practices when making a value judgment.

Representative Bell asked about OPE's estimation of the size of the request. Mr. Mohan said the large estimation had to do with an exam of many case files in addition to reviewing all policies and procedures.

Co-chair Bayer said the process of selecting topics would initially be started with a ballot from all committee members. OPE would tally the ballots and then members could make motions for topics with a cumulative value of 12 points. The motions could be comprehensive or individual until the workload was appropriately defined. Members filled out their ballots and OPE displayed the results. An attached spreadsheet provides the results.

**Senator Werk moved to conduct an evaluation of the top five topics:**

- **State employee compensation models and employment barriers**
- **Best practices for state contract management**
- **Analysis and comparison of Idaho's tax rates with other states**
- **State law and policy comparisons for traditional and charter public schools**
- **Teacher recruitment, attrition, and retention in the state's K-12 public schools**

**Senator Stennett seconded the motion.**

**Representative Bell offered a substitute motion to conduct an evaluation of the following topics:**

- **State employee compensation models and employment barriers**
- **Best practices for state contract management**
- **Analysis and comparison of Idaho's tax rates with other states**
- **State law and policy comparisons for traditional and charter public schools**
- **Impacts of EPA control and oversight of DEQ water programs**

**Senator Mortimer seconded the substitute motion.**

Representative Bell said she would have been happy with the original motion but the DEQ study would give the committee a more rounded selection of topics. JLOC had done several evaluations of public education and her motion would put a different type of topic in the mix.

**Representative Ringo offered an amended substitute motion to conduct an evaluation of the following topics:**

- **State employee compensation models and employment barriers**
- **Best practices for state contract management**
- **Analysis and comparison of Idaho's tax rates with other states**
- **Impacts of EPA control and oversight of DEQ water programs**
- **Legislative oversight and coordination of state-funded technology infrastructure**

**The amended substitute motion failed because it did not receive a second.**

Senator Hammond said he supported the original motion. As the author of the SCR, the issue, assuming that it passes the House, will take care of the concerns expressed in the DEQ request. He said he had worked with DEQ on the SCR and that was why he felt certain that the SCR covered all the primacy water issues.

**The substitute motion from Representative Bell to conduct an evaluation of DEQ instead of teacher recruitment failed by roll call vote with Mortimer, Bell, Ringo, and Bayer voting yes and Hammond, Stennett, Smith, and Werk voting no.**

**The original motion from Senator Werk to conduct an evaluation of the top five topics by ballot vote passed by roll call vote with Hammond, Mortimer, Stennett, Bell, Smith, Ringo, and Werk voting yes and Bayer voting no. The selected topics are state employee compensation models and employment barriers; best practices for state contract management; analysis and comparison of Idaho's tax rates with other states; state law and policy comparisons for traditional and charter public schools; and teacher recruitment, attrition, and retention in the state's K-12 public schools.**

Mr. Mohan thanked the requestors for all the topics, indicating all were very good requests. He said JLOC had made some tough decisions in its selection. The committee would meet one more time during session to hear two follow-up reports. He hoped to present both reports on March 19.

*The meeting adjourned at 5:25 p.m.*

John Rusche  
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Nez Perce County

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#### COMMITTEES

Revenue and Taxation

Health & Welfare

Business

## House of Representatives State of Idaho Minority Leader

February 8, 2012

Senator Elliot Werk  
Representative Cliff Bayer  
Chairmen, Joint Legislative Oversight Committee

Dear Chairmen Bayer and Werk,

Over the last several years the State of Idaho has participated in several large IT contract that have not gone smoothly. The Molina Claims project is, perhaps, a poster child for how a series of planning and contract management errors can end up costing the State and her citizens significantly in time, money and reputation.

In my investigation of this and other error prone projects (longitudinal data system, etc), it appears that we lack a framework for contract development and management and for vendor management around these big projects.

We know that more big projects are in the wings—ICD-10 Diagnosis coding of claims for H&W, health insurance exchange/Medicaid readiness, k-12 technology build out, Medicaid Managed care, and likely others we have yet to see as we recover from the recession.

An evaluation of Idaho's contracting process could examine existing criteria, identify the best-practice contracting principles, and compare that information against current practices in Idaho. An evaluation could assess whether agencies are following the guidelines set forth by the Division of Purchasing and whether more specific policies may be necessary to ensure consistency among agencies.

Some of the questions OPE could investigate include the following:

- What are the existing best practices in terms of developing, awarding, and managing state contracts? Are there best practices that account for the size of the contracting agency or the dollar amount of the contract?
- How well is Idaho applying these best practices?
- Are there policies that could be created or expanded to improve the management of state contracts and protect the state's interests throughout the contracting process?
- What changes, if any, to Idaho Code or Administrative Code could improve the contracting process in Idaho?



February 8, 2012

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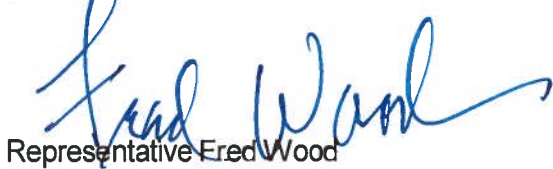
As we move forward, the State of Idaho will continue to have projects and programs involving contract development and management. Developing a more formalized framework of contract requirements that are built around best practices will serve the state, agencies, vendors, and citizens well. JLOC and OPE can help clarify the need and opportunities for developing such a framework.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "John Rusche", with a long horizontal flourish extending to the right.

Representative John Rusche

A handwritten signature in blue ink, appearing to read "Fred Wood", with a long horizontal flourish extending to the right.

Representative Fred Wood

A handwritten signature in black ink, appearing to read "Jeff Thompson", with a long horizontal flourish extending to the right.

Representative Jeff Thompson

24-Hour Review Requested by Representative John Rusche

## **Best Practices for Managing State Contracts**

Prepared by Amy Lorenzo

Effective contract management relies on clearly defined expectations, on the part of the state and the vendor. These expectations begin as soon as the state or agency identifies a need for goods or services and does not end until the contract closes. Throughout the contract process, the state must have the capacity to not only articulate clear and meaningful deliverables, but also evaluate the quality of product submitted by the vendor.

In the past few years, Idaho has entered into large-scale contracts with mixed results. For example, in 2004, the J. A. and Kathryn Albertson Foundation terminated its partnership with the state to build the Idaho Student Information Management System (ISIMS) because the project lacked clearly defined roles and responsibilities and did not adequately consider the end-user needs.<sup>1</sup> Most recently, the contract between the Idaho Department of Health and Welfare and Molina Healthcare, Inc. resulted in months of delays and costs to the state in dollars and resources.<sup>2</sup> Legislators have expressed concerns that Idaho does not have a sufficient infrastructure to protect the state's best interests throughout the duration of a contract.

### **Identifying Best Practices**

Challenges with effective contract management are not unique to Idaho. A report released by the Minnesota Legislative Auditor in 2003 outlined 18 principles for state agencies as they issue contracts for professional and technical services.<sup>3</sup> As shown on the next page, the principles follow the contracting process from initial development to completion. In addition, the principles highlight clear communication among the agency, the vendor, and the state.

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<sup>1</sup> Idaho Legislature, Office of Performance Evaluations, *Idaho Student Management Information System—Lessons for Future Technology Projects* (August 2006).

<sup>2</sup> Idaho Legislature, Office of Performance Evaluations, *Delays in Medicaid Claims Processing*, (March 2011).

<sup>3</sup> Minnesota Office of Legislative Auditor, *Professional/Technical Contracting* (January 2003).

## ***Contracting Principles for State Agencies***

### Assessing the Need for a Contract

1. Identify what services are needed
2. Determine why the services are needed and how they will benefit the agency and state
3. Consider a range of alternatives to determine how the needed services can best be provided

### Selecting a Contractor

4. Develop criteria to objectively evaluate how well potential contractors can meet the needs of the agency and state
5. Select the “best value” for the state
6. Ensure that there is no employee or organizational conflict of interest

### Writing a Contract

7. Clearly define roles, responsibilities, and performance expectations of the contractor and agency staff
8. Identify a variety of tools to monitor contract and contractor performance
9. Link payment to the satisfactory completion of specific contract tasks or services, which should be spread throughout the life of the contract
10. Address the extent to which the state owns the final product

### Executing a Contract

11. Obtain all necessary signatures on the contract before work begins
12. Ensure that funds are available before work begins

### Monitoring a Contract

13. Maintain expertise within the agency to effectively manage contractors
14. Periodically evaluate the progress of the contract and determine whether it is wise to continue
15. Follow up on results of monitoring reviews, audits, and investigations

## Closing a Contract

16. Ensure that all deliverables are satisfactorily completed before making final payment
17. Evaluate the contractor's performance and make written evaluations available for other state agencies
18. Use the final work product as intended

In addition to the study completed in Minnesota, we reviewed studies in Colorado and Texas that focused on contract management and oversight. We found that each of these states had encountered problems in effectively managing state contracts and ensuring those contracts complied with state guidelines. In Colorado, for example, evaluators found that agencies were not consistent in using performance measures to evaluate deliverables. Evaluators provided recommendations to strengthen oversight, improve communication, and require the contract deliverables were properly reviewed and approved before payment was made to vendors.

## Understanding Contracting in Idaho

In our review of Idaho Code and Administrative Code, we found that statute provides a general description of the Department of Administration's Division of Purchasing and the contracting process.<sup>4</sup> Idaho Administrative Code provides more detailed information on contract requirements, **yet allows for a significant amount of flexibility within the development and subsequent award of contracts.**<sup>5</sup> Further, we were unable to find specific requirements for **how or when contracts should be monitored and enforced once awarded or whether agency size or contract amount impacts how the contract is managed.**<sup>6</sup>

The Division of Purchasing has guidelines for agencies in the development and administration of contracts, but the responsibility of development and administration ultimately lies with the agency. For example, rather than require agencies to work with the division early in the development process, **guidelines say the agencies are invited to involve the division.** The guidelines also outline some of the requirements for the evaluation team that reviews proposals but notes, "the larger the team, the longer it will take to finish the evaluation process." While not explicit, this guideline appears to suggest that smaller evaluation teams are a preferable choice.

The division is responsible for releasing payments to vendors once a contract is awarded, but it plays a limited role in ensuring contract deliverables align with the terms of the contract or meet the expectations of the agency. According to the division, **"the agency has full responsibility to manage the contract from cradle to grave, including contract compliance issues, change orders (modifications, amendments, renewals, extensions, assignments, notations, etc.),**

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<sup>4</sup> IDAHO CODE §67-57.

<sup>5</sup> IDAHO ADMIN. CODE, IDAPA 38.05.01.

<sup>6</sup> Contracts in excess of \$100,000 are generally subject to a sealed bidding process. IDAPA 38.05.01 does not provide additional guidance for larger contracts.

**handling disputes, cure notices, liquidated damages, and, if necessary, contract cancellation.”<sup>7</sup>**

## Improving the Contracting Process

Given the contract issues we found in our recent study of delays in Medicaid claims processing, agencies may not always have the expertise or capacity to properly fulfill their role in developing, awarding, and managing contracts—particularly when the terms of the contract fall short. In light of available data, such as studies in other states and best practices, significant information exists to better determine how Idaho could make improvements to its contracting process.

An evaluation of Idaho’s contracting process could examine existing criteria, particularly the contracting principles outlined in the Minnesota study, and compare that information with the *current practices* in Idaho. An evaluation could assess whether agencies are following the guidelines set forth by the Division of Purchasing and whether more specific policies may be necessary to ensure consistency among agencies.

Evaluators could also review existing statute and administrative rules for ways to clarify roles and responsibilities, strengthen the oversight function of agencies, and reduce the expenses associated with missed deadlines, insufficient deliverables, and a lack of expertise in identifying issues before they significantly affect outcomes.

In requesting an evaluation, legislators may wish to consider the following questions:

1. What are the existing best practices for developing, awarding, and managing state contracts? Are there best practices that account for the size of the contracting agency or the dollar amount of the contract?
2. How well is Idaho applying these best practices?
3. Are there policies that could be created or expanded to improve the management of state contracts and protect the state’s interests throughout the contracting process?
4. What changes, if any, to Idaho Code or Administrative Code could improve the contracting process in Idaho?

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<sup>7</sup> Division of Purchasing, Contract Administration, *Guide to Roles and Responsibilities*.



## Idaho State Senate

State Capitol  
P.O. Box 83720  
Boise, Idaho 83720-0081

February 22, 2012

Senator Werk  
Representative Bayer  
Co-Chairman, JLOC

Dear Sirs:

The Senate Local Government would like to request an evaluation of the tax rates in Idaho as compared to other states. There are national relative comparisons among states, but none using a weighted quantitative analysis.

There are many organizations that come before the committee saying that a particular tax is higher in Idaho than in another state, and thus Idaho companies cannot be competitive. However, with no independent and objective comparison available of the overall tax structure of Idaho in relation to other states, it is unfair to measure one specific tax between states. The committee would like to see what best practices are available to policymakers in other states.

This request would be of ongoing use not only for those who are on the committee today, but in years to come in order to make more informed and quantitative decisions related to tax policy.

The committee would like to have this completed by October of 2012.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Corder". The signature is fluid and cursive, with the first name "Tim" and last name "Corder" clearly distinguishable.

Senator Tim Corder



## House of Representatives State of Idaho

February 22, 2012

Representative Cliff Bayer  
Senator Elliott Werk  
Joint Legislative Oversight Committee

Dear Representative Bayer and Senator Werk:

We have heard concerns about employee compensation and turnover from executive agency directors this session. As a result we are interested in requesting that the Office of Performance Evaluation evaluate the following issues:

Where are we with regard to policy? We use the Hay Profile method in combination with market data. Due to funding constraints, we have been unable to follow this. A chart indicating comparison ratios to the private sector for FY 2010 and FY2011 is attached.

What kind of actions, possibly phased in, could the legislature take for agencies under 80% to reach 80% of policy? 90% of policy? Please consider breaking out dedicated from general fund agencies.

What would be the costs to reach these two benchmarks?

The concerns that have captured our attention are as follows:

- a. High turnover in most agencies or "churn"
- b. Employees leaving for higher pay
- c. Loss of technical skills for key agencies such as DEQ, ITD, Finance, PUC

In addition we are interested in the following:

Are there barriers, statutory, regulatory or other, that you can identify that are preventing the state from moving employees through the system?

Would you evaluate different options to policy makers for compensation models including but not inclusively, merit increases, across the board raises, targeting highly competitive positions with salary increases. Should the CEC Committee that recommended pay be reinstated?

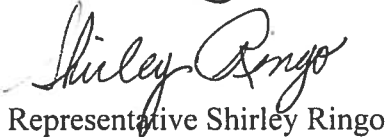
Finally, could you produce a report that accurately reflects the number of positions lost in the last four years, and the number of employees who have left for higher paying positions.

Thank you for your consideration of this very important issue confronting the state and its employees. We draw your attention to code sections 67-5309B and 67-5309A as reference points for your work. Due to the wide interest among legislators, this study can be considered time sensitive. We would appreciate this data in October/November, but will understand if you need to deliver this in January.

Sincerely,



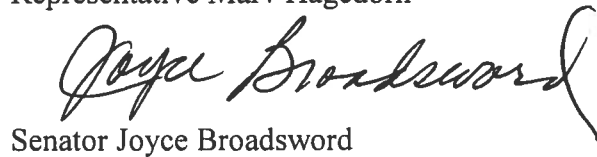
Representative Wendy Jaquet



Representative Shirley Ringo



Representative Marv Hagedorn



Senator Joyce Broadsword



Agency Name	Compa-Ratio 10/22/2010	Compa- Ratio 10/31/2011	Average Pay Rate	Average Policy Rate	Classified Employees	Average Years of Service
Financial Management	111.90%	114.20%	\$27.24	\$23.85	2	28.8
Office of Energy Resources	97.10%	105.30%	\$17.41	\$16.54	1	30.3
Endowment Fnd Investment Bd	102.30%	102.30%	\$23.99	\$23.44	2	25.7
Racing Comm	102.10%	102.10%	\$22.25	\$21.79	1	20.5
State Police	101.90%	100.20%	\$24.97	\$24.90	463	12.1
Dentistry Bd		99.70%	\$14.33	\$14.37	1	0.9
Nursing Bd	91.70%	95.80%	\$15.18	\$15.85	5	18.1
Prof Eng & Land Surv Bd	95.80%	95.80%	\$17.19	\$17.94	2	11.2
Accountancy Bd	88.90%	93.20%	\$18.02	\$19.33	2	22.2
Southwest Health District III	89.00%	93.00%	\$18.80	\$20.22	86	8.8
Prof-Tech Education	92.40%	92.20%	\$15.02	\$16.29	14	12.1
Central Health District IV	88.30%	89.80%	\$19.43	\$21.65	108	9.4
Building Safety	89.30%	89.00%	\$21.00	\$23.61	95	10.7
Lottery	87.90%	88.60%	\$14.26	\$16.10	11	9.2
Independent Living Council	77.70%	88.50%	\$18.71	\$21.14	3	6
Southeast Health District VI	86.10%	88.50%	\$19.03	\$21.50	79	10.7
Commission on Aging	86.50%	88.30%	\$23.70	\$26.85	9	9.4
Lava Hot Springs	89.00%	87.80%	\$12.64	\$14.39	12	7.2
Administration	87.90%	87.10%	\$19.58	\$22.49	122	11.9
Pharmacy Bd	86.90%	86.90%	\$17.74	\$20.41	9	10.5
Transportation	87.30%	86.50%	\$19.43	\$22.47	1689	14.2
South Central Health District V	84.70%	86.00%	\$18.31	\$21.29	71	9.8
Eastern Idaho Tech College	87.30%	85.90%	\$14.36	\$16.70	39	9.1
Finance	86.10%	85.70%	\$24.34	\$28.41	57	10.2
Liquor Division	86.40%	85.50%	\$14.28	\$16.71	192	9
North Central Health District II	84.80%	85.00%	\$19.02	\$22.37	42	9.8
Public Utilities Comm	85.80%	84.90%	\$22.75	\$26.81	36	13.9
Comm-Blind & Visually Impaired	83.90%	84.50%	\$19.02	\$22.50	38	11.8
Eastern Idaho Health District VII	84.20%	84.30%	\$18.98	\$22.51	81	10.8
Outfitters & Guides	84.00%	84.00%	\$13.11	\$15.61	4	8.1
Fish & Game	83.90%	83.60%	\$22.01	\$26.32	541	14.3
Panhandle Health District I	83.80%	83.60%	\$19.13	\$22.89	106	10.2
Water Resources	83.70%	83.50%	\$23.27	\$27.87	140	13
Historical Society	83.40%	83.40%	\$19.22	\$23.05	38	12.3
Veterans Services	83.90%	83.40%	\$15.32	\$18.37	279	7.4
Brand Inspector	83.30%	83.10%	\$16.00	\$19.24	28	14.3
Labor	83.50%	83.00%	\$20.47	\$24.66	626	12
Health & Welfare	83.00%	82.60%	\$20.37	\$24.67	2647	10.3
Public Television	83.70%	82.50%	\$18.76	\$22.73	48	13.4
PERSI	82.30%	82.00%	\$18.04	\$22.00	55	12.1
Insurance	81.70%	81.60%	\$18.98	\$23.28	56	9.7
Lands	81.90%	81.50%	\$22.07	\$27.07	237	13.7
Medicine Bd	82.10%	81.20%	\$13.83	\$17.03	7	13.5
Industrial Comm	81.60%	80.90%	\$15.00	\$18.53	77	10.1
Commission For Libraries	80.30%	80.80%	\$18.26	\$22.59	35	11.7
Lewis-Clark State College	81.30%	80.30%	\$12.96	\$16.14	132	9.6
Occupational Licenses	80.90%	80.30%	\$16.00	\$19.92	32	10.4
Soil & Water Conservation	85.00%	80.30%	\$20.96	\$26.09	13	8.3
Environmental Quality	80.40%	80.00%	\$24.21	\$30.27	317	12.5
Human Resources	82.40%	80.00%	\$23.56	\$29.46	9	13.6
Juvenile Corrections	80.80%	79.80%	\$17.19	\$21.54	383	9

Agency Name	Compa-Ratio 10/22/2010	Compa- Ratio 10/31/2011	Average Pay Rate	Average Policy Rate	Classified Employees	Average Years of Service
Agriculture	80.10%	79.60%	\$21.29	\$26.75	162	12.6
Tax Comm	81.10%	79.60%	\$19.23	\$24.16	398	11.3
Tax Appeals Bd	79.50%	79.50%	\$24.02	\$30.21	3	11.9
Boise State University	79.90%	79.30%	\$13.43	\$16.94	570	10.3
Real Estate Comm	79.20%	78.80%	\$17.52	\$22.24	12	6.8
Commerce	80.00%	78.50%	\$19.87	\$25.33	44	8.7
Hispanic Commission	78.50%	78.50%	\$15.17	\$19.33	1	11.1
Idaho State University	79.30%	78.40%	\$13.16	\$16.79	612	9.8
Parks & Recreation	78.40%	77.90%	\$18.39	\$23.60	136	13.1
Correction	77.00%	76.40%	\$17.27	\$22.60	1499	8.2
Vocational Rehab	76.80%	76.40%	\$14.75	\$19.31	54	9.6
Education Bd	74.90%	76.30%	\$14.75	\$19.33	2	2.1
Pardons & Parole Comm	73.80%	73.40%	\$17.63	\$24.01	28	10.1
Veterinary Med Bd	71.40%	71.40%	\$13.80	\$19.33	1	14.8
Averages	83.40%	82.80%	\$18.98	\$22.92		11

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Averages	83.40%	82.80%	\$18.98	\$22.92		11



**House of Representatives**  
**STATE OF IDAHO**  
**CAPITOL BUILDING**  
P.O. BOX 83720  
BOISE, ID 83720-0038

February 23, 2012

Joint Legislative Oversight Committee  
Idaho State Capitol  
700 W. Jefferson  
Boise, ID 83720

Re: Request for Analysis of EPA Oversight and Control of Idaho Water Quality Programs

Dear Committee:

The undersigned request that the Joint Legislative Oversight Committee ("JLOC") evaluate the impacts of the Environmental Protection Agency's ("EPA") oversight and control over Idaho water quality programs. We are concerned about the impacts of EPA oversight and control over Department of Environmental Quality ("IDEQ") development, interpretation, and implementation of Idaho Water Quality Standards, of Total Maximum Daily Loads ("TMDLs"), and NPDES permitting. We are specifically concerned about the impact of EPA oversight and control on:

- a. the development, interpretation and implementation of state Water Quality Standards and TMDLs which reflect the concerns and values of Idahoans, and set realistic, and economically attainable expectations;
- b. NPDES permitting by EPA with IDEQ certification, that may result in inefficient, unnecessarily duplicative administration that is not directly responsive to the needs of NPDES permittees and the concerns and priorities of the State of Idaho;
- c. consideration and utilization of local water quality expertise and experience, and the implementation of locally-developed, consensus-based water quality solutions;
- d. analysis of the feasibility, cost versus benefits, and economic impacts of water quality policy choices and requirements;
- e. use of the best available, site-specific data and analysis of water quality conditions as the basis for water quality policy and management,
- f. reasonable enforcement that achieves compliance without imposing unnecessary penalties.

Joint Legislative Oversight Committee  
February 23, 2012  
Page 2

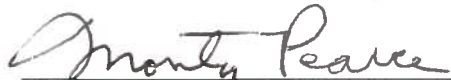
Given the importance of Idaho's water resources to the State, these issues are of obvious statewide interest. This is reflected in Senate Concurrent Resolution No. 116, which would authorize a committee to study the resources and statutory changes required for the State to obtain primacy over NPDES permitting in Idaho.

We respectfully request that JLOC evaluate the above-described impacts of EPA oversight and control over Idaho's administration of water quality programs, including Idaho's Water Quality standards, TMDLs, and NPDES permitting. This study should include the impacts to State sovereignty and control of its water resources, as well as the fiscal impacts to the State of Idaho and the costs and burdens imposed upon Idaho businesses and citizens.

Thank you for your consideration.



Representative Lawrence Denney  
Speaker, House of Representatives




Senator Monty Pearce,  
Chairman, Senate Resources & Environment Committee



Senator Jeff Siddoway,  
Chairman, Senate Agricultural Affairs



Representative Del Raybould  
Chairman, House Resource, Environment, Energy & Technology Committee



Representative Ken Andrus  
Chairman, House Agricultural Affairs Committee



**House of Representatives**  
**STATE OF IDAHO**  
**CAPITOL BUILDING**  
P.O. BOX 83720  
BOISE, IDAHO 83720 – 0038

March 9, 2012

Joint Legislative Oversight Committee  
Idaho State Capitol  
700 W. Jefferson  
Boise, ID 83720

Re: Amended Request for Review of Idaho Water Quality Programs

Dear Committee:

Based upon JLOC's last meeting and discussions with Office of Performance Evaluations (OPE) Director Rakesh Mohan, the undersigned hereby refine our February 23, 2012 request for Joint Legislative Oversight Committee ("JLOC") review of Idaho water quality programs.

As previously mentioned, we are concerned that the Environmental Protection Agency's ("EPA") oversight and control over Idaho water quality programs may adversely affect state administration, local involvement and the use of sound science in the administration of Idaho Water Quality programs. We are also concerned that such oversight and control imposes unnecessary regulatory burdens and costs. We believe that the quality of Idaho's waters is most cost-effectively protected by state and local officials working collaboratively with local communities and stakeholders who have the greatest knowledge, interest and concern about Idaho's water resources.

Our prior request identified five areas of concern for potential JLOC review. One of these is EPA's primacy over NPDES permitting for Idaho point source dischargers. We understand that JLOC members believe that previous studies and analysis that may be performed if SCR is approved by the House of Representatives adequately address this issue. We, therefore, withdraw our request for JLOC evaluation of this concern.

The NPDES permitting process, while important, does not address several fundamental aspects of Idaho water quality policy. The objectives, priorities and requirements of water quality

programs in Idaho are established by water quality standards (the designated uses and water quality criteria assigned to Idaho waters), water quality impairment determinations, and the establishment of Total Maximum Daily Loads (TMDLs) for impaired water bodies. EPA exercises oversight and control over each of these areas. We are specifically concerned about situations in which EPA dictates or overrides state and local determinations of these aspects of Idaho water quality policy. EPA, the Idaho Department of Environmental Quality (IDEQ), local governments and communities and stakeholders each have a role to play in establishing, implementing and complying with water quality programs in Idaho. Within the established, regulatory structure, we request that JLOC identify and evaluate opportunities to optimize state, local and stakeholder determination and implementation of water quality policy for the State of Idaho. We would like this evaluation to include analysis of our premise that Idaho's waters are most cost-effectively protected by state and local officials working collaboratively with local communities and stakeholders who have the greatest knowledge, interest and concern about Idaho's water resources.

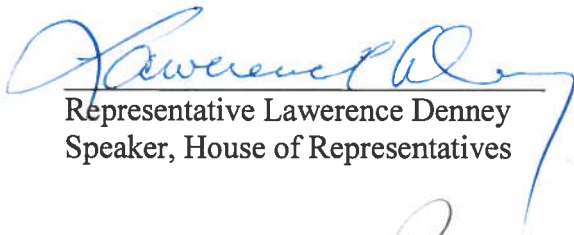
We understand that there are numerous examples in Idaho and other states through which JLOC may study both the impacts of EPA oversight and control of state water quality programs, as well the benefits that can be achieved through greater state and local autonomy in establishing and implementing water quality policy. We are specifically interested in JLOC's evaluation of:

1. Whether and how state and local determination of the objectives, priorities and requirements of Idaho water quality policy may be optimized within current statutory authorities and regulations.
2. Changes to state law, regulations and administrative procedures and practices that may enhance state autonomy in establishing and implementing water quality policy.
3. Opportunities for state, local and stakeholder partnerships to optimize utilization of local water quality expertise and experience, and the implementation of locally-developed, consensus-based water quality solutions.
4. Integrating analysis of the feasibility, cost versus benefits, and economic impacts of water quality policy choices and requirements.
5. Methods to ensure use of the best available, site-specific data and analysis of water quality conditions as the basis for water quality policy and management.
6. Changes to enforcement policies and practices that achieve compliance without imposing unnecessary penalties.

Joint Legislative Oversight Committee  
March 9, 2012  
Page 3

We understand that JLOC and OPE may need to revise and/or stage the topics to be evaluated under this request. We hope that the underlying theme of the evaluation will be how to optimize state and local autonomy in establishing water quality policy for the State of Idaho.


Thank you for your consideration.



Representative Lawrence Denney  
Speaker, House of Representatives




Senator Monty Pearce,  
Chairman, Senate Resources & Environment Committee



Senator Jeff Siddoway,  
Chairman, Senate Agricultural Affairs



Representative Delf Raybould  
Chairman, House Environment, Energy & Technology Committee



Representative Ken Andrus  
Chairman, House Agricultural Affairs Committee



District 1  
Boundary & northern Bonner Counties  
Statehouse (208) 332-1349  
(Session Only - January - March)



Home Address  
P.O. Box 101  
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(208) 263-1839  
[skeough@senate.idaho.gov](mailto:skeough@senate.idaho.gov)

**Shawn Keough**  
**Idaho State Senator**

State Capitol  
P.O. Box 83720  
Boise, Idaho 83720-0081

February 23, 2012

Senator Elliot Werk, Co-Chair  
Representative Cliff Bayer, Co-Chair  
Members  
Joint Legislative Oversight Committee  
c/o Office of Performance Evaluations  
P.O. Box 83720  
Boise, Idaho 83720-0055

Dear JLOC Co-Chairs & Members,

I am writing to ask for you to consider this request as you contemplate the next cycle of performance evaluations and staff assignments for the Office of Performance Evaluations.

I have two areas of evaluation for consideration as outlined below.

# 1 The first topic for consideration is in regards to publicly funded technology infrastructure in Idaho. With all the tax dollars we are spending on technology infrastructure does the Legislature have appropriate oversight? Is there planning and coordination that prevents duplicative efforts and insures that all areas of the state gain access to the technology infrastructure we are building?

One does not have to search very long to find a plethora of state agencies, projects, councils, and task forces focused on technology infrastructure. The list includes: the Information Technology Resource Management Council, Idaho Education Network, the Dept. of Administration, Idaho Technology Council and Idaho Research Optical Network. **This list is not complete.** Additionally, we know that many rural areas of our state are not yet connected to reliable internet service or broadband service. A recent New York Times article noted: "Idaho had the slowest download speeds in the country earlier this year for residential customers - a "dismal" average of 318 kilobytes per second, a company's study found."

[http://www.nytimes.com/2011/09/14/us/downloads-are-slowest-in-idaho-study-finds.html?\\_r=1&nl=todaysheadlines&emc=tha23](http://www.nytimes.com/2011/09/14/us/downloads-are-slowest-in-idaho-study-finds.html?_r=1&nl=todaysheadlines&emc=tha23)

Our goals for economic growth and public education demand that we are planning and coordinating the build out of our technology infrastructure, not duplicating installation, and making it accessible to all areas of our state. Doing so requires Legislative oversight to ensure our success.

# 2 The second topic for consideration is a review and comparison of state laws and policies relating to traditional and charter public schools. As you well know, we have two public K-12 systems in Idaho now and it is important to evaluate the differences between our charter schools and our traditional schools to measure if the goals of changing the system are being met. Originally, the introduction of the charter school option, which I supported, was characterized as allowing choice in public education, injecting the benefit of competition as a means of betterment to the entire system and as laboratories for examining changes that could benefit the traditional schools. At this point in time it seems reasonable to measure our progress. What are the differences in statute between charter schools and the traditional schools? Have they added value to the system? For example, the policies differ between the two on facilities: K-12 funds school buildings by a vote of the people on the property tax while charter schools are able to seek private financing and donations but not property taxes. What are the benefits of this difference? What are the detriments? Is one system preferable than the other? Should both options be allowed to both systems? Another example: the auditing standards appear to be different: are those differences of benefit? If so, should one standard apply to both? There are other places where there is one standard for the charter school and one standard for the K-12 system. It is timely to measure the outcomes of the differences especially as we contemplate expansion of the charter system.

I know that JLOC receives many suggestions and requests for the scarce time of our professional evaluation staff at the Office of Performance Evaluations. I truly appreciate your time and consideration.

Sincerely,



Shawn Keough  
Idaho State Senator  
District One: Boundary and Bonner Counties



## Idaho State Senate

State Capitol  
P.O. Box 83720

Boise, Idaho 83720-0081

February 22, 2012

Senator Elliot Werk and Representative Clifford Bayer  
Joint Legislative Oversight Committee  
HAND DELIVERED:

Dear Senator Werk and Representative Bayer:

The Senate Education Committee has heard conflicting reports on public school educators. Some reports suggest teachers are moving to states where pay is more lucrative; other reports state union membership is falling; while others suggest educators are staying in their classrooms longer because of the effects of the recession on their pensions. There is concern that our universities are not graduating educators in the numbers to fill positions likely to open in teaching ranks in the near future.

We believe a study is warranted, specifically in the following areas:

1. Educator recruitment – How do new teachers find their way into this profession and why?
2. Teacher attrition – Why do teachers leave the profession, where do they go, and in what numbers?
3. Teacher retention – What keeps Idaho teachers in the classroom?
4. Projected future needs – In the face of an aging teaching workforce and a growing population, what are Idaho's anticipated needs for future educators?
5. Are teachers graduating with the skills to be successful in today's classrooms and, if not, what are those deficiencies?
6. National statistics would support the theory that educators moving from one state to another, lose about half their pension potential over their work careers. How does PERSI treat educators moving from another pension system to Idaho's and vice versa?
7. Identify the challenges and opportunities to attract new teachers and retain current staff.
8. Provide a decade of historical data on supply of educators verses job openings.
9. The ratio of students to certified teachers does not always reflect the number of students in a classroom since many certified teachers focus on other duties. An effort to segregate certified teachers associated with a classroom would help better understand the issue.
10. Examine changes in duties of teachers and whether there are new burdens on time and attention created by a loss of Community Resource Workers, counselors and other support staff.

Sincerely,

A handwritten signature in blue ink, appearing to read "John W. Goedde", written over a circular blue stamp.

Senator John W. Goedde

cc: Rakesh Mohan, Office of Performance Evaluation

DISTRICT 5  
KOOTENAI COUNTY

HOME ADDRESS  
4556 WEST FOOTHILL DRIVE  
COEUR D'ALENE, IDAHO 83814  
(208) 666-1122



STATE CAPITOL  
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BOISE, IDAHO 83720-0081  
(208) 332-1300  
FAX: (208) 334-2320  
jhammond@senate.idaho.gov

## Idaho State Senate

### SENATOR JIM HAMMOND

February 27, 2012

The Honorable Senator Elliot Werk  
The Honorable Representative Clifford Bayer  
Co-Chairmen,  
Joint Legislative Oversight Committee (JLOC)  
**HAND DELIVERED**

Dear Senator Werk and Representative Bayer,

I understand you received a study proposal from Senator Goedde, Chairman of the Senate Education Committee, exploring various aspects of teaching and teachers as a profession. If JLOC pursues Senator Goedde's proposal, I suggest adding another area to the list; to wit, data on class size variations in Idaho.

Idaho currently maintains data on student/teacher ratio, but that includes all certificated staff in the school district. It would be helpful to also have a handle on the class size – whether it is high, low, average, median – and it should probably be segregated by school district size.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Jim Hammond". The signature is stylized with a large, sweeping "J" and "H".

Senator Jim Hammond  
Chairman, Senate Transportation Committee  
Legislative District 5



## House of Representatives State of Idaho MAJORITY LEADER

TO: Joint Legislative Oversight Committee  
FROM: Representative Mike Moyle *MM*  
Representative Christy Perry *CP*  
DATE: March 5, 2012  
RE: Department of Health & Welfare

We would like to make a request of the Joint Legislative Oversight Committee to investigate certain aspects within the Idaho Department of Health and Welfare. There have been reported cases of severe difficulties associated with the Idaho Foster Care Program.

Specifically, the manner and reasons children are being placed into foster care, as well as the manner and reasons they are removed from foster care and entered into the adoption process.

The focus of the evaluation should be on the uniformity of process and decision making hierarchy. Additional questions to be answered would include:

- 1) Reasons as to why children (foster and natural) are being taken into custody and are they in line with federal regulations regarding the use of imminent danger?
- 2) Are case plans being accurately followed?
- 3) Are parents being sufficiently informed of their parental rights?
- 4) Are parents and family members being informed of their legal options?
- 5) Are those children being presented for adoption being protected by a Guardian Ad Litem?
- 6) What is the hearing process when and if a conflict exists?

We would like to request that determinations regarding the evaluation be made available no later than December 1, 2012 in order to discuss the evaluation and work with the Idaho Department of Health and Welfare to make legislative changes in the 2013 legislative session if necessary.

Thank you for your time and consideration of this very important matter.

scf