Minutes of the Joint Legislative Oversight Committee
December 16, 2015
Lincoln Auditorium, Capitol, Boise, Idaho

Cochair Representative John Rusche called the meeting to order at 9:35 a.m. Attending the meeting were Senators Cliff Bayer and Cherie Buckner-Webb and Representatives Maxine Bell, Gayle Batt, and Elaine Smith. Senators Steve Vick and Michelle Stennett arrived after the meeting started. Also present were Rakesh Mohan, director; and other OPE staff. Audience members included the following:

Representative John Gannon
Robert Geddes, Director, Department of Administration
Dan Goicoechea, Chief of Staff, Office of the State Controller
David Fulkerson, Interim Administrator, Division of Financial Management
Chris Campbell, Chief Technology Officer, Department of Education
Elke Shaw-Tulloch, Administrator, Division of Public Health and Traci Berreth, Chief, Public Health Business Operations, Division of Public Health, Department of Health and Welfare
Lora Whalen, Director, Public Health District 1 (by phone)
Carol Moehrle, Director, Public Health District 2 (by phone)
Richard Roberge, Trustee, and Nikole Zogg, Director, Public Health District 3
Elting Hasbrouck, Trustee, and Russ Duke, Director, Public Health District 4
Rene LeBlanc, Director, Public Health District 5
Maggie Mann, Director, Public Health District 6 (by phone)
Geri Rackow, Director, Public Health District 7 (by phone)

Cochair Rusche asked if there were any changes to the agenda. Rakesh said the committee may want to take a five-minute break after about 90 minutes.

Report release: *Distribution of State General Fund Dollars to Public Health Districts*

Senator Bayer moved to receive the report *Distribution of State General Fund Dollars to Public Health Districts*. Representative Bell seconded the motion, and it passed by voice vote.

Cochair Rusche called on Rakesh to introduce the report. Rakesh said the Oversight Committee assigned this report toward the end of the last legislative session. The evaluation involved working closely with seven public health districts and staff at the Budget and Policy Analysis Division and the Division of Financial Management.

Bryon Welch, principal evaluator, Tony Grange, senior evaluator, and Bob Thomas, consultant, summarized findings and recommendations of the report. They said that public health districts' budget in fiscal year 2015 was $50.4 million and state general fund dollars made up about 17 percent of that amount. The Legislature was required to appropriate funds equal to at least 67 percent of contributions from each district's counties. In the past ten years, the Legislature's match had been substantially greater, at more than 100 percent.

The Trustees of the Boards of Health distribute the state's general fund appropriation to districts through a formula that the Trustees develop. For fiscal year 2014, the Trustees eliminated the measure of public assistance enrollment from the formula because data were unreliable. This elimination decreased fiscal year 2014 state general fund dollars as compared with 2013 for two districts (district 3 by $26,300 and district 4 by $26,500) despite increases in their county contributions. Evaluators said they could not determine whether changes to the formula were fair or equitable because the Trustees had not formally established objectives or intended purposes of the formula.

Evaluators also said the Trustees had not clearly linked the needs of programs to weighted measures of the formula. In addition to county contributions, the formula used measures of population and poverty rates to distribute funds. However, those measures did not directly assess actual public health needs.

Districts govern regulatory and fee-based programs, such as the inspection of food establishments, sewage disposal, land development, and child care facilities. Some of these regulatory programs were heavily subsidized by state general fund dollars because their fees did not cover the cost of operation. Evaluators said some district officials had indicated their boards were reluctant to increase regulatory fees because of public intolerance—high fees could discourage compliance with regulations. Also, some fees were set in code and had not been changed in years. Consequently, other core public health programs had to compete with regulatory programs for state and county dollars.

Cochair Rusche confirmed that the formula did not use health measures or rates of uninsurance to determine areas of greatest need.

Representative Batt asked why districts did not ask for more contract dollars to cover the cost of service. Bryon indicated the Department of Health and Welfare gave districts a contracted dollar amount and districts estimated which services they could provide. If demand was higher than the contracted dollar, districts still opted to serve the client.

Senator Stennett confirmed that each district determined how it applied state and county funds to its programs.

Cochair Rusche asked whether fees were set in code. Bob indicated that fees were set in code for some programs—swimming pools, food programs, and child care. Fees for other programs were determined by districts. Cochair Rusche clarified that fees paid only 57 percent of programs.

Representative Smith asked whether more discretionary funds would become available to districts if the weight for county contributions was eliminated from the formula. Bryon said yes. He said districts asked and received funds from their counties. Trustees distributed state dollars using a percentage of county contributions in relation to every district. If the weight were removed, districts would have more predictability in the amount of funds they received.

In the recommendation to phase in changes to the formula, Representative Smith asked for a precise definition of *several years*. Bryon said changes should be phased in over about 3 years unless change was dramatic. Then the Trustees could determine a longer phase-in time.

Representative Bell said public health districts were hybrid agencies with governing boards. The money that flowed from the state was as generous as it could be. She said that districts have had trouble getting fees from local entities and cited food programs as an example. She asked if the governing boards could adjust fees when Idaho Code said *may*. Bob said yes.

Representative Bell said in cases where the state had put fees in code—as with restaurants, swimming pools, and child care—increases needed to go through a germane committee. She cautioned against starving business owners and then expecting them to run safe, clean restaurants and swimming pools. However, unless the state established a base or set aside part of the budget as discretionary, she did not see how funding concerns would change until fees were looked at.

Cochair Rusche asked if contracts were block grants. Bryon said yes.

Rakesh said the Governor's response was on page 58 of the report and a joint response from six of seven districts was on page 59. District 4 did not respond formally. Cochair Rusche invited a representative from the Governor's office or from the Department of Health and Welfare to respond to the report. Neither agency offered a response.

Cochair Rusche invited Elting Hasbrouck, trustee for district 4, to respond to the report. Mr. Hasbrouck said he agreed with Representative Bell. He suggested removing the responsibility of determining a fair distribution formula from the Trustees and assigning it to the Legislature. As the largest district, district 4 sometimes served populations from other districts. It did not have enough funding for many of its functions—most of its designated dollars went to basic programs of food services, swimming pools, and septics. He said district 4 had been outvoted for years and suggested the creation of an appeals process for Trustees' decisions.

Cochair Rusche said that oft times the question of whether money was distributed equitably was really about whether the amount of money was adequate for services. Changing the formula did not necessarily address the question of adequacy. He asked whether district 4 had adequate funding. Mr. Hasbrouck said district 4 had programs it would like to offer, such as parents as teachers. District 4 dealt with refugee clientele who needed the immunization program, and it had a substantially larger number of HIV and STD cases than other districts.

Cochair Rusche asked about the reaction of commissioners if regulatory programs were asked to cover their own cost. Mr. Hasbrouck said commissioners were the front line for angry citizens. It was hard to tell citizens that charges were mandated and were the cost of doing business.

Cochair Rusche invited Rene LeBlanc, director for district 5, to respond to the report. Mr. LeBlanc said districts received funding from four major sources with personnel being their biggest expense. People were tied to contracts and subgrants, and sometimes funding was not enough. He said district 5 looked at state and county contributions as district support—a balance sheet of revenues, expenditures, and indirect costs (cost of doing business). District support balanced all of its programs to zero.

Mr. LeBlanc said that because fees were stated in code, they could not be modified by districts. He said boards of health were cognizant of their communities and sometimes hesitated to raise fees if communities were not willing to pay. If fees became higher, people would not commit to permits and wait to be caught. He said district 5 had a large geography to cover, did not have the same level of staffing now that it had in 2007, and had more driving time. He said he would make do with what he had been given. The formula was not perfect, but it was the best districts had. He said that per their formal response in the report, the Trustees would address the recommendations they could do something about.

Senator Stennett said that district 5 had counties with varied affluence; some could contribute more than others. How did district 5 distribute funds equitably by county? Mr. LeBlanc said all money went into one account and was not managed county by county. He said it was like buying a membership into a public health system, with access to all resources within the district.

Cochair Rusche asked—beside county contribution, population, and affluence—whether the board used other measures to distribute funds (e.g., indicators of community health, death rates, and prematurity rates) that could be impacted by the programs. Mr. LeBlanc said the Trustees would look at those things as the Division of Public Health assessed this kind of information. The biggest challenge was how to phase in changes so no district was severely impacted by a shift in dollars.

Representative Batt asked why the state had purview over swimming pools, food, and septic fees. Mr. LeBlanc said the food permit and child care fees were regulated by the Department of Health and Welfare, which allowed districts to collect and keep fees. Septic was under the Department of Environment Quality through IDAPA rule and delegated to districts, which also allowed districts to collect and keep fees.

After determining no other district wanted to comment on the report, Cochair Rusche asked for action on the report. Rakesh said OPE would be presenting the report to the joint budget committee on January 13, 2016. He could forward comments from JFAC members to this committee and then the committee could decide whether to close or recommend a follow-up.

Representative Bell said she appreciated having the report, but any change in policy would have to come out of some other committee.

Cochair Rusche said the committee would hold off on action until after the JFAC presentation. Rakesh said OPE would provide reports to the health and welfare committees and the health and environment committees.

The committee took a 10-minute break.

Follow-up report release: *State Employee Compensation and Turnover*

Representative Batt moved to accept the follow-up report. Senator Bayer second the motion, and it passed by voice vote.

Rakesh said Bryon would bring some positive news about implementation of recommendations. Bryon reviewed findings of the evaluation and summarized agency actions. He said he found in his initial study that although legislative intent was to fund a competitive compensation and benefit package for state employees, 90 percent of classified employees had been paid less than their policy pay rate.

In his follow-up to the evaluation, he said the Division of Human Resources reached out to the Hay Group for a review of the technology job classification with results still forthcoming, and it developed an exit survey that captured reasons why employees left state government. The joint budget committee added intent language to its fiscal year 2014 appropriation bills that encouraged agencies to use salary savings to increase employee pay, and the Legislature increased minimum and policy pay rates in the compensation schedule. As a result, 86 percent of classified employees were paid less than their policy pay rate in 2015 (four percentage points less than in 2012). In addition, of employees earning less than the policy pay rate, a smaller percentage was near the bottom of the pay grade in 2015 than was in 2012.

Cochair Rusche asked how the policy rate compared with the market rate. Bryon said the policy pay rate ideally should be the market rate. Policy rates had been lagging behind market rates. In 2015, policy was 16 percent below regional public and private employers.

Senator Bayer made three points for drawing accurate comparisons: (1) pay rates did not incorporate benefits, (2) variations existed within the market, such as pay for the same position in small business versus corporate, and (3) index or value assigned to stability, such as Micron—if employees worked in the right era, they retired early; if they worked in the wrong era, they were looking for a job. Bryon said the policy pay rate measured pay of similar markets and of similar sizes of employers and did not factor in benefits. In 2014 DHR contracted with the Hay Group to look at total compensation. After calculating benefits, particularly retirement, the state lagged about 7 percent behind other markets.

Cochair Rusche invited David Fulkerson, interim administrator, Division of Financial Management to respond. Mr. Fulkerson said to establish the pay rate, comparisons of jobs were matched as well as possible. Retirement and medical plans helped the state gain weight. Differences in employer jobs were difficult to measure, but one good measure was pay.

Cochair Rusche asked whether the state was behind other markets. Mr. Fulkerson said specialty jobs were always going to be a problem to fill and keep if the applicant pool was short in supply. Directors had indicated their biggest problem was keeping IT, which was why he had hired the Hay Group to look at IT job descriptions.

Representative Bell moved to close the report and Senator Bayer seconded. Senator Stennett said she hoped the follow-up report would be given to the CEC Committee. Rakesh said he thought OPE was on the agenda to present to the CEC Committee in January. **The motion passed by voice vote.**

Status report: *Strengthening Contract Management in Idaho*

Cochair Rusche called on Rakesh to introduce the update. Rakesh said OPE conducted a follow-up last year and found the department had implemented recommendations. The Legislature created an interim committee to look at contract management, so the office did not have much left to do but present a status report. Amanda Bartlett, principal evaluator, said the division conducted an internal analysis of contract planning and management practices and formulated a plan to improve the state's contracting process. These processes were created in rule and required approval from the Legislature. The Legislature did not approve most of the rules and instead appointed an interim committee to undertake a complete study of purchasing laws.

Cochair Rusche asked if the focus of interim committee was on rules of purchasing rather than project management. Representative Bell, who was on the Purchasing Laws Interim Committee, said there was an assumption the committee would ask for an extension because there was too much to accomplish in one year. The committee had begun revising code and putting everything in one place. Other parts would come along as it continued to work.

Cochair Rusche asked Mr. Robert Geddes, administrator, Department of Administration to address the committee. Mr. Geddes said revising code was a monumental task, and the committee had used good judgment and wise foresight in asking for more time to do a thorough, comprehensive job of looking at statutes.

Representative Smith moved to close the contract management evaluation, and Representative Bell seconded it. The motion passed by voice vote.

Status report: *Idaho's Instructional Management System (Schoolnet) Offers Lessons for Future IT Projects*

Cochair Rusche called on Rakesh to introduce the update. Rakesh said that when this report was presented last session, the committee discussed whether to follow-up or close the report. He said he had recommended to wait for a status update from the department before deciding on action for the report. The department and Lance McCleve, principal evaluator, would address the committee.

Mr. Chris Campbell, chief technology officer, Department of Education, said Schoolnet had not provided quality data to districts. School personnel have indicated they need quality data that was pertinent, timely, and at the local level. The department was running the state-hosted Schoolnet platform on a perpetual license. However, the department intended to remove that status on June 30 and allow districts to use what was best for them at the local level. Throughout this school year, districts had been given the option of using Schoolnet or purchasing a solution that worked for them. The vast majority of districts had transitioned away from Schoolnet.

Mr. Campbell said in transitioning away from the state-hosted Schoolnet, the department removed Schoolnet from its new ERSA waiver and permitted local choice. Some functions within Schoolnet still needed to be maintained in some way. The department was developing new applications to deliver assessment scores directly to districts and a clearinghouse for professional development. The department was also working with districts to migrate Discovery Education access away from Schoolnet.

Mr. Campbell said from a governance perspective, Schoolnet management had been moved from IT to the content division. The department had hired a chief procurement officer to oversee contracting processes to ensure they were better moving forward.

Cochair Rusche asked there was anything left from the investment of Schoolnet. Mr. Campbell said technology (devices, software, and content) implemented in the classroom with technology funds and the application itself was left.

Lance said he was pleased with the department's direction and surprised it had made so much progress. With regard to sunk costs, a major portion of the reported Schoolnet costs was technology funds along with district staff training on instructional management systems. Both would be of value moving forward.

Representative Batt moved to close the Schoolnet report. Senator Vick seconded the motion, and it passed by voice vote.

Status report: *The K–12 Longitudinal Data System (ISEE)*

Mr. Chris Campbell said ISEE had been a time burden to districts. The department did a comprehensive review of ISEE in May, item-by-item, line-by-line. It looked at the data governance structure, examined documentation, and pulled in stakeholders to understand how to improve ISEE. The department made the divisions stewards of data and required each person to justify each data item left in ISEE. Through this process, the department identified some data elements that were put in but not actually used or redundant. The department dramatically reduced the number of data elements and the frequency of collection. It would continue to solicit input moving forward.

Representative Batt thanked the department for its efforts. She said she had heard from her school administrators about this issue. The department drilled down to the issue by listening, which meant the world to districts, and by making changes.

Lance said when he went on site visits for the evaluation, he asked districts what they wished could be done to fix ISEE. He said no district had dared to wish for as much as the department had delivered. Judging from its update, the department appeared to address every finding and recommendation in the report consistent with OPE intent. The committee thought a year was a short amount of time to conduct a follow-up—so what the department did exceeded all expectations.

Representative Batt moved to conduct a follow-up in one year. She said she would like to see the districts' response in the follow-up. **Representative Bell seconded the motion, and it passed by voice vote.**

Cochair Rusche said this evaluation had not been a contract or purchasing project but an issue with project management. He said we had to watch out for more than just purchasing. In the past, he had noticed that sometimes reports had findings that flopped, but when he reviewed progress today, he said he felt that projects have led to improvement.

Evaluation process, topic selection, and follow-up

Rakesh said he was asked at the last Legislative Council meeting how the office ensured its independence and credibility. He said he had received three critical pieces of advice in his career: (1) creditability took many years to build and one mistake could take creditability away, (2) at the end of the day, credibility was the only thing an evaluator could hang his hat on, and (3) although there were important legislators, no legislator was unimportant. He discussed elements of how the office built creditability:

Leader in evaluation. Rakesh said he had been invited to present OPE work to members of the Cameroon Parliament and the Israeli Association for Program Evaluation over Skype. He was working with Cornell University to develop a summer program for students to intern in the office—a proposal initiated by Cornell.

Independence. Rakesh said all people had biases and OPE staff were required to disclose their biases on projects by completing a conflict of interest form. Objectivity in staff's work product was checked by other team members, consultants, and Rakesh.

Responsiveness. Rakesh said the office sought to be useful and answer legislators' questions and offer a work product that benefitted stakeholders. To respond to these stakeholder needs, the office listened and respected stakeholder input even though it may be political.

Standards. To walk the political tightrope of responsiveness, Rakesh said the office was guided by three sets of standards to ensure objectivity: the Government Auditing Standards, the American Evaluation Association's Guiding Principles, and the Program Evaluation Standards.

Value for money. Rakesh said the office strove to ensure its work was practical by making useful recommendations. Looking back over the past 10 years, OPE had identified $74 million in cost savings. Recommendations have helped the joint budget committee and other germane committees improve programs and policies.

Senator Stennett commended staff for diplomacy in wording delicate issues.

Other business

Cochair Rusche said the committee had received a request for evaluation from Representatives Joe Palmer and John Gannon. He said that requests were received throughout the session and decided upon in a topic selection meeting toward the end of the session. He asked Rakesh about current work capacity.

Rakesh said legislators could submit a request at any time. If an approved request needed to start earlier than March, members could ask OPE to put aside other work. The request from Palmer and Gannon would look at establishing a one-stop shop for disposing surplus property. The request did not ask for a shift in office work priorities for quick completion.

Senator Bayer asked about the size of the scope and suggested addressing a smaller fragment of the request in a 24-hour review. Rakesh said he did not know how much work the request would require, although it would be a full study. He said he could conduct a 24-hour review to collect information that could be shaped into an evaluation scope.

Senator Bayer confirmed that 24-hour reviews were managed by the director and did not require a motion from the committee.

Rakesh said the office was planning to hold a meeting on Monday, January 18, to release the Optum report. He said this date was fairly firm because OPE was scheduled to present the report to the joint budget committee on January 19.

The meeting adjourned at 12:10 pm.