

Minutes of the Joint Legislative Oversight Committee

March 11, 2016

Room WW54, Capitol, Boise, Idaho



Cochair Senator Cliff Bayer called the meeting to order at 9:04 a.m. Attending the meeting were Senator Steve Vick, Representatives John Rusche, Maxine Bell, Gayle Batt, and Elaine Smith. Senators Michelle Stennett and Cherie Buckner-Webb were excused. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator; and other OPE staff. Audience members included the following:

Senators Grant Burgoyne, Jim Guthrie, Lori Den Hartog,
Representatives Tom Dayley, John Gannon, Wendy Horman, Steve Miller, Christy Perry,
Russ Barron, Department of Health and Welfare

Approval of minutes

Representative Rusche moved to approve the minutes of the meeting on February 22, 2016. Senator Vick seconded the motion, and it passed by voice vote.

Requests for evaluation

Rakesh said the office received some excellent requests covering a broad range of topics. Thirteen requests were submitted with signatures from 27 legislators—8 from senators, 19 from representatives; 22 from Republicans and 5 from Democrats; some were from leadership and committee chairs. He said the success of the Oversight Committee and the office largely depended on the types and quality of requests submitted and topics assigned.

The meeting was important for requesters to make their case about why their request was important. He said requesters' presentation should focus on three areas: (1) Was the request to have the office gather information or to evaluate information, which included gathering, analyzing, and determining if sufficient evidence existed for program or policy recommendations? (2) How would the study improve state policy or programs? (3) How did the requester plan to use the results of the study? This information would be useful to the Oversight Committee when assigning topics and to the office after the study was assigned to know how to scope the study.

He said reports were a tool, and requesters needed to know how they would use that tool. Some requests were small and some would require extra money. After the Oversight Committee heard the requests and selected their top five to narrow the number of requests, Rakesh would discuss how size and costs could shape the committee's final selection.

Representative Batt asked about workload. Rakesh said the office had completed assigned studies and was working on three follow-up reports. The office had four more follow-ups in the next cycle; however, when projecting workload, he would not include follow-ups. Rakesh said the office could take three large studies.

Senator Bayer said he would try to schedule a meeting next week for all members to attend—two members were unable to attend because they were in another committee meeting. He said the Oversight Committee would address study size at the next meeting.

Surplus property

Representative John Gannon addressed his request (attached). He said a study would categorize how 900 taxing districts and 556 additional districts disposed of surplus personal property. The study could compare these practices with other states, evaluate good alternatives, and make recommendations. He said any legislation could be complicated because of the number and type of entities involved.

Representative Rusche said he thought the request sounded more like a request for proposal than an evaluation. Representative Gannon said it was a mix of both. Representative Bell asked if the system was not working. Representative Gannon said the system would work better if there was one collective place to sell materials. Senator Vick asked if the intent of the request was to help entities get more value for their equipment. Representative Gannon said yes, a collective website would eliminate a narrow sales area.

Board of Tax Appeals

Senator Grant Burgoyne addressed his request (attached). He said his request listed a number of topics and prioritized them in the following order: #6 bullet, #5 bullet, and #2, 3, and 4 bullets. A study would assure taxpayers were fully able to be heard and their rights protected. All topics were information gathering with the last two also evaluative. He said the report could lead to legislation. Representative Rusche asked if the Oversight Committee had released a study on taxpayer advocacy a short time ago. Rakesh said a taxpayer advocacy report was released in 2014. The office would be releasing a follow-up of that report before the end of session.

Public Law 280

Senator Jim Guthrie addressed his request (attached). He said a study would look at the impacts of retrocession, determine how the law was implemented in Idaho, and identify the best course of action for the four tribes impacted by Public Law 280. Representative Rusche said the request to review 50 years of history to determine whether Idaho had missed federal support was a huge undertaking. He asked if Senator Guthrie had an idea of the size of federal money that we were foregoing. Senator Guthrie said size of federal money was an unknown. A key component of the study would be to determine whether the state was fulfilling its financial and jurisdictional responsibilities. If not, he said we would need to look at handing the program back to the federal government.

School for the Deaf and Blind

Representative Steve Miller addressed his request (attached). He said a study could determine whether the School for the Deaf and Blind could be eligible for extra federal funds, particularly if it were configured differently. Representative Bell asked whether the Department of Education had that information. She said the request seemed to be information gathering rather than evaluative.

K-12 funding formula

Representative Wendy Horman addressed her request (attached). She said a study would not evaluate funding programs, but rather identify which funding programs were not distributed through the formula and whether they could be built into a new funding formula or kept separate for specified reasons. The study would be used in conjunction with the interim committee's findings and provide the Legislature with a more complete understanding of state support for K-12 public education. She said the chairs and vice chairs of the Senate and House

education committees supported the study, as well as Senator Janie Ward-Engelking on Senate Education and Representatives Pence and Kloc on House Education.

Representative Rusche asked whether the Department of Education could provide this information. Representative Horman said she believed that an independent survey would be most useful.

Road closures, rulemaking at the Department of Education, rulemaking at the Board of Education, and rulemaking for all agencies

Representative Heather Scott was not available to address her requests.

Cost savings in economic downturn

Representative Jason Monks was not available to address the request.

Child protective services

Representative Christy Perry addressed her request (attached). She said a study would evaluate workload management, caseload management, data management, and hearing processes for improvement and better promotion of the safety, permanency, and well-being of children in foster care or state custody. She said she worked with the Department of Health and Welfare in developing the request and the department was interested in outside assistance.

Referring to the office's estimate of the study size, Representative Batt asked what large plus meant. Rakesh explained that much of the data was still hard copy files at local district offices, which would require data entry and travel. In addition, staff would need to go into the regions and districts to talk to staff. He said he had talked to Representative Perry about extra funding. He encouraged committee discussion of size and funding during topic selection.

School-based Medicaid program

Representative Thomas Dayley addressed his request (attached). He said a study would evaluate the program in the Department of Health and Welfare and the Department of Education and provide information to these departments and school districts so they can work together more effectively to eliminate barriers for accessing federal funding. It would also provide information to the Legislature for policy decisions.

Local Highway Technical Assistance Council (LHTAC)

Senator Lori Den Hartog addressed her request (attached). She said a study would look at the mission of LHTAC and how to utilize limited resources. She said the study might be similar to the office's audit of the Idaho Transportation Department in 2009 and used to assist legislators in identifying alternatives to services and in looking at issues that could be put to rest or taken up for legislation. She said the chairs and vice chairs of the Senate and House transportation committees supported the study.

Senator Bayer thanked the presenters and said he would extend an invitation to Representatives Scott and Monks to speak to their requests at the topic selection meeting before the committee selected topics. He asked Rakesh to provide information on historical studies that related to any requests. Rakesh said he would try to schedule the next meeting early the following week.

The meeting adjourned at 9:58 am.



House of Representatives

STATE OF IDAHO

CAPITOL BUILDING

P.O. BOX 83720

BOISE, ID 83720-0038

December 9, 2015

Senator Cliff Bayer
Representative John Rusche
Co-Chairman
Joint Legislative Oversight Committee
Statehouse
Boise, Idaho 83720

Dear Co-Chairman:

Surplus property disposal by the 900 taxing districts and 556 additional districts that independently spend taxpayer dollars is governed by many different statutes and procedures. (See LSO Special Report #SR 102113 dated January 14, 2014). It would seem beneficial to the 1456 districts, taxpayers, potential buyers and our State if surplus items were advertised in one place. We are proposing a "Craig's List for Idaho Surplus Property".

The result will be more buyers for property and higher receipts from sales. By having all 1456 districts and the State of Idaho list surplus property in one place, potential buyers will be more easily aware of available surplus property, and with more buyers one would expect more revenue. Such a listing will discourage preferential dealing by boards and commissions and avoid claims that any buyer received special consideration.

We envision that listing would be easy, inexpensive, and convenient, so that minimum sale thresholds can be lowered. For example, irrigation districts do not have to advertise or publicize surplus property when its value is less than \$50,000. (Idaho Code 43-818). Fire Protection Districts have a \$10,000 threshold (Idaho Code 31-1420). Idaho Counties have a \$250 threshold. (Idaho Code 31-808).

Our Counties threshold of \$250 seems to work. Ada County (Bob Perkins 287-7140) was very helpful and advises that his County sells from \$25,000 to \$35,000 per year and uses the private website "Public Surplus". Some other Idaho jurisdictions do too, and on November 12, 2015 there were 27 items listed. Buyers pay a 10% of sale price fee. (See attached)

We envision that while listing on the statewide website would be mandatory, districts or the state would certainly be able to advertise or otherwise publicize the surplus property as they

wish or as provided by statute. In fact they should be encouraged to otherwise advertise specialty equipment in trade websites or journals. Once a listing period has passed, the items could be disposed at auction.

We have talked to the Treasurer and State Controller's Office. It might be that this surplus property list could be managed and attached to the State of Idaho website for a small charge per item, or if users upload and list property themselves perhaps no charge. Maybe a sixty day minimum listing period would be appropriate, with unsold items going to an auction website as Ada County does.

Since legislative staff did much of the work with identifying districts, we are asking that JLOC ask OPE to:

1. Catalog and summarize all of the surplus property procedures currently in place, including applicable code sections, and the practices of the various jurisdictions.
2. Determine approximate estimates of the costs for district and state staff time for each sale now and compare them if only the internet was used.
3. Survey the different jurisdictions and the State of Idaho for their suggestions and ability to participate in a statewide listing system.
4. Obtain estimates as to the cost of developing the appropriate site for the listings, and the approximate cost of maintaining the site and whether an auction should be a follow up for unsold merchandise.
 - A. Perhaps staff can get an idea of how many surplus items will be listed in a year period.

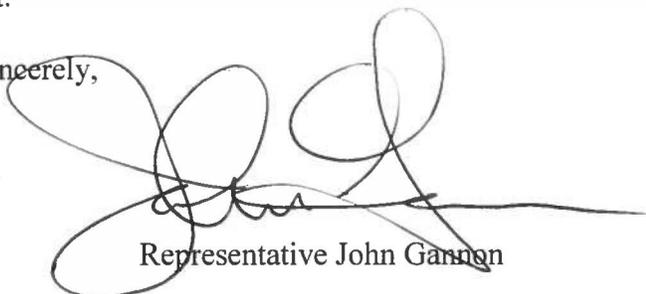
Interacting with all the kinds of districts, the applicable statutes, desires of participants and other aspects of this project require a significant amount of time so the help from JLOC is very appreciated and helpful.

Thank you for considering this request.

Sincerely,



Representative Joe Palmer



Representative John Gannon

Public | Surplus™

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Search Auctions

Keyword

In Category

Auctions Ending In or that Started In

Price Range From \$ To \$
(leave blank to see all auctions)

Located miles from zip code

In Region

Auction	Title		Time Left	Bids	Current Price
1482155	Bausch and Lomb 1X Dissecting Scope		1 day 3 hours	2	\$13.05
1477730	Osprey Framed Print - Rex Brasher		1 day 3 hours	4	\$16.25
1475247	John Deere Snowblower		1 day 3 hours	3	\$20.49
1475419	55 Gallon Sprayer		1 day 3 hours	6	\$76.00
1477748	Greater Yellowlegs Framed Print - Rex Brasher		1 day 3 hours	1	\$1.99
1482749	1999 Blue Bird 77 pass		5 days 1 hour	0	\$2,000.00
1488398	Aluminum "Better Built" Truck Mount Tool Box		5 days 4 hours	3	\$27.00
1479594	2004 International School Bus		7 days 0 hours	0	\$3,000.00
1479593	2003 International School Bus		7 days 0 hours	0	\$3,000.00
1479585	2001 International School Bus		7 days 0 hours	0	\$2,500.00
1479715	1991 Dodge Caravan		8 days 0 hours	8	\$470.00
1479577	2001 International School Bus		8 days 0 hours	0	\$2,500.00
1479580	2001 International School Bus		8 days 0 hours	0	\$2,500.00
1488538	Brother P-Touch Label Printer		8 days 3 hours	0	\$1.99
1487063	TREATED POST		10 days 23 hours	1	\$40.00
1487068	TREATED POST		10 days 23 hours	0	\$40.00
1486966	REDWOOD		10 days 23 hours	0	\$18.00
1486955	TREATED DECK WOOD		10 days 23 hours	0	\$60.00
1486709	LASERJET PRINTER		10 days 23 hours	0	\$10.00
1486695	PICCOLO		10 days 23 hours	3	\$11.00
1486689	CANON FAX MACHINE		10 days 23 hours	0	\$10.00
1486678	ALTO SAXOPHONE		10 days 23 hours	2	\$51.00
1486616	OCE COPY MACHINE		11 days 0 hours	0	\$99.00

Auction	Title		ID	Time Left	Bids	Current Price
1481991	1984 GMC 3500 18 pass school Bus		ID	11 days 4 hours	1	\$500.00
1489400	COPY PRINTER 		ID	13 days 23 hours	0	\$50.00
1489399	CANON PRINTER 		ID	13 days 23 hours	0	\$25.00
1489397	CANON COPIER 		ID	13 days 23 hours	0	\$45.00

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From: [Senator Grant Burgoyne](#)
To: [Rakesh Mohan](#)
Cc: [Senator Clifford Bayer](#); [Representative John Rusche](#)
Subject: Request JLOC for OPE Study
Date: Wednesday, March 02, 2016 9:02:28 AM



Idaho State Senate

gburgoyne@senate.idaho.gov

Dear Co-Chairs Bayer and Rusche,

This is my request that the Joint Legislative Oversight Committee select the Taxpayer Bill of Rights (“TABOR”) and related issues pertaining to appeals from the Tax Commission’s notices of deficiency as evaluation topics for the Office of Performance of Evaluations.

TABOR was enacted in 1993. Some amendments were made in 1994, but no changes have been made since then. Related statutes include, but are not necessarily limited to, Idaho Code Section 63-3049 (pertaining to judicial review) and Idaho Code Section 63-3045B (Tax commission’s notice of deficiency). Taxpayers may appeal notices of deficiency first to the Tax Commission and then either to the Board of Tax Appeals or the District Court.

I believe the following topics are worthy of study:

- What is the utility of the requirement in Idaho Code Section 3049(b) that the taxpayer deposit cash or other financial security with the Tax Commission equal to 20% of the amount which the Tax Commission has asserted as due? Is this requirement inhibiting appeals to the Board of Tax Appeals and the Courts?
- Does Idaho Code Section 3049(a)’s \$25,000 limit on the Board of Tax Appeals’ jurisdiction, as it pertains to sales and use taxes and corporate income taxes, serve a legitimate and useful purpose and, if some dollar limitation on the Board of Tax Appeals’ jurisdiction is useful and legitimate, should the current \$25,000 limit be raised?
- Should the Board of Tax Appeals publish all of its decisions, not just those relating to property?
- Should Certified Public Accountants, rather than just attorneys, be permitted to represent taxpayers in Board of Tax Appeal proceedings as is permitted in some other states?
- How well is the requirement of Idaho Code Section 63-3045B(7) that the Tax commission publish its decisions, and that such decision serve as precedent for the Tax Commission in future determinations, working? Are the decisions adequately accessible to the public and what is the effect of excising information from the

published decisions? Should all Board of Tax Appeal and Court tax decisions be published, and referenced with published Tax commission decisions, so that the public is on notice when Tax Commission decisions are reversed, modified, vacated or otherwise called into question?

- Is security for Board of Tax Appeals hearing adequate and, if not, how can it be improved for the protection of taxpayers, members of the Board and others? The issue of security was specifically mentioned as a concern in the Senate earlier this session during the process of confirming the reappointment of the Board's members.
- Should TABOR (Idaho Code Sections 63-4001 through 63-4011) be amended to take account of electronic communications and processes?
- Is TABOR (Idaho Code Sections 63-4001 through 63-4011) sufficiently clear and comprehensive, and of sufficient utility, to protect the legitimate interests and rights of taxpayers?

Although I believe all of these issues go together in assuring that taxpayers are fully able to be heard and protect their rights, I can see dividing them into the following groups if that is necessary: (a) updating TABOR with respect to electronic communications and processes; (b) posting cash or other financial security to appeal and limits on the jurisdiction of the Board of Tax Appeals; (c) publication of appellate tax decisions and referencing them to published Tax Commission decisions; (d) security of Board of Tax Appeals hearings; (e) permitting certified public accountants to represent taxpayers in Board of Tax Appeals proceedings; and (f) other potential updates to fulfill the underlying policies of TABOR.

Thank you for considering this request.

Sincerely,

Senator Grant Burgoyne
District 16, Ada County



Idaho State Senate

SENATOR JIM GUTHRIE

March 2, 2016

TO: The Joint Legislative Oversight Committee

FROM: Legislative member of the Idaho Council on Indian Affairs

In 1953, the Federal Government passed Public Law 83-280 (PL 280). The law gave states the option to assume civil and criminal responsibility over seven areas of tribal jurisdiction which had traditionally been performed by the Federal Government. Those seven areas include compulsory school attendance; juvenile delinquency and youth rehabilitation; dependent, neglect and abused children; insanities and mental illness; public assistance; domestic relations; operation and management of motor vehicles upon highways and roads maintained by the county or state or political subdivisions thereof. PL280 did not provide federal funding support for states that assumed control over these areas¹. PL 280 impacts tribal members living on reservations and does not impact non-tribal members.

In 1963, the State of Idaho adopted PL 280 into code under 67-5101. By doing so, Idaho assumed financial and enforcement responsibility for all the areas outlined in PL 280. The level of enforcement and funding provided by the state under 67-5101 is uncertain but in many cases the Tribes in Idaho are now running their own programs in these areas.² Idaho's status as a PL 280 state may limit the resources Idaho's tribes can receive from their federal partners.

Some states that adopted PL 280 have since retroceded the jurisdiction back to the tribes and the federal government. In many cases have taken over servicing these areas themselves or have entered in to memorandums of understanding with state enforcement agencies.

In order to best evaluate the impact of possible changes to 67-5101, the legislative members of the Idaho Council on Indian Affairs requests the Joint Legislative Oversight Committee to evaluate the following questions regarding Idaho Code 67-5101.

1. What state agencies are statutorily obliged to fulfill the duties outlined in 67-5101?
2. Do these agencies fulfill the duties? Do agencies give tribal members the same level of service as other Idaho citizens?

¹ Final Report: Law Enforcement and Criminal Justice Under Public Law 280, National Criminal Justice Reference Service (NCJRS), May 2008. pg 7 <https://www.ncjrs.gov/pdffiles1/nij/grants/222585.pdf>

² Ibid, pg 12

2. Do these agencies fulfill the duties? Do agencies give tribal members the same level of service as other Idaho citizens?
3. Do state agencies receive federal funds to provide services under PL 280? Would retrocession of PL 280 impact any of these programs for non-tribal members?
4. What is the process by which other states have retroceded PL 280?

As the legislative members of the Idaho Council on Indian Affairs, we believe further study of this law will help Idaho and the 4 tribes within Idaho in impacted by PL280 determine the best course of action. We would appreciate the support of the Joint Legislative Oversight Committee in requesting the Office of Performance Evaluation review and report of the questions outlined above.

Thank you for your consideration of this request.

Sincerely,



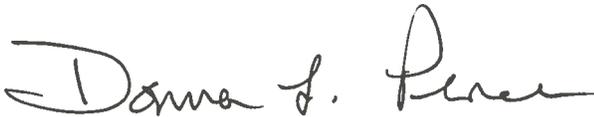
Senator Jim Guthrie



Senator Cherie Buckner-Webb



Representative Marc Gibbs



Representative Donna Pence

STEVEN MILLER
DISTRICT 26A
BLAINE, CAMAS, GOODING
& LINCOLN COUNTIES



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House of Representatives State of Idaho

February 2, 2016

Senator Clifford R. Bayer
Representative John Rusche

Joint Legislative Oversight Committee
Statehouse
Boise, Idaho 83702

Dear Sen. Bayer and Rep. Rusche:

In reviewing the JFAC budget for the Deaf and Blind school it was observed there is very little federal funding coming to the school. As result, I ask that JLOC investigate the possibilities of the school qualifying for Medicaid, federal Department of Education funds or other funds that might be available to the school.

Sincerely,

A handwritten signature in blue ink that reads "Steve Miller".

Representative Steve Miller

Wendy Horman

DISTRICT 30,
Bonneville County

HOME ADDRESS
1860 Heather Circle
Idaho Falls, ID
83406
(208) 522-4387

EMAIL:
WendyHorman@house.idaho.gov



House of Representatives State of Idaho

COMMITTEES

Appropriations
Commerce & Human Resources
Local Government

March 3, 2016

Senator Clifford R. Bayer
Representative John Rusche

Joint Legislative Oversight Committee
Statehouse
Boise, Idaho 83702

Dear Sen. Bayer and Rep. Rusche:

During the 2016 Legislative Session, HCR 33 created an interim legislative committee to “undertake and complete a study of and make recommendations for the state’s public school funding formula.” In the context of that discussion, it will be important to understand what resources and services that support school districts and charter schools are being funded by the state within the education budgets but outside of the funding formula.

The Joint Legislative Oversight Committee could compliment the work of the interim committee in its study of the public school funding formula by directing the Office of Performance Evaluations (OPE) to conduct an evaluation that would include:

- An inventory of services funded at the state level and delivered to local school districts and charter schools. Examples include Regional Math Labs, Idaho Capacity Builders, Special Education support, Idaho Core Trainers and other professional development contracted for at the state level, etc. To the extent possible, include descriptions of services offered by other state entities outside of the State Department of Education that offer support to local school districts and charter schools. Examples include Idaho Digital Learning Academy and the state’s colleges and universities.
- An analysis of how the resources and services that are currently being funded on behalf of local districts contribute to meeting the statewide needs of different learning modalities, serving Idaho students, and providing fiscal stability to public school districts and public charter schools.

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It is recognized that private providers serve local districts and are contracted for at a local level with state funds delivered to local districts. It is not anticipated that this study would include an inventory of such locally contracted services.

Along with the interim committee's findings, OPE's evaluation will provide the legislature with a more complete understanding of state support for K-12 public education.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Horman", followed by a horizontal line extending to the right.

Representative Wendy Horman

Heather Scott

DISTRICT 1,
Bonner & Boundary Counties

HOME ADDRESS
P.O. Box 134
Blanchard, ID
83804
(208) 920-3120

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House of Representatives State of Idaho

COMMITTEES

Environment, Energy, & Technology

Judiciary, Rules, & Administration

Revenue & Taxation

March 3, 2016

Senator Clifford R. Bayer
Representative John Rusche

Joint Legislative Oversight Committee
Statehouse
Boise, Idaho 83702

Dear Sen. Bayer and Rep. Rusche:

OPE Study Idea:

What is the problem? What is its extent?

How does the state dept of lands or other agencies make decisions for road closures within Idaho borders? Does the state negotiate or work with federal agencies to coordinate road closure areas? How do the local citizens and stakeholders get involved in the process?

How do you plan to use the information?

The evaluation will be used to help citizens be more effective in the rulemaking process.

I have had several concerns raised by constituents on road closures. They are unclear when or why these roads are being closed. They are concerned about safety and hunting access. I would like to better understand why these public roads are being closed and how the citizens can be involved in this process.

Sincerely,

Representative Heather Scott

Heather Scott

DISTRICT 1,
Bonner & Boundary Counties

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House of Representatives State of Idaho

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Revenue & Taxation

March 3, 2016

Senator Clifford R. Bayer
Representative John Rusche

Joint Legislative Oversight Committee
Statehouse
Boise, Idaho 83702

Dear Sen. Bayer and Rep. Rusche:

OPE Study Idea:

Does the Department of Education adequately comply with state law relating to the rule making process? In particular, the negotiated rule making process.

What is the problem? What is its extent?

I have had many complaints from citizens concerning the negotiated rule making process. When citizens contacted the department, they gave limited information. At a hearing, a government agent showed up with a tape recorder and just recorded comments from citizens. There was no negotiating with citizens or explanation of changes in the rules. Citizens were concerned that their feedback was ignored and not taken into consideration. There was no follow-up. Many times in committees, we are told by the agencies that they met with interested parties. How are they finding interested parties? Who are they negotiating with? What does the process look like? Where and when is the negotiation done? Citizens would like to join the process and aren't being allowed, being refused hearings in their community, or do not understand the process.

How do you plan to use the information?

This study could help describe the negotiated rulemaking process and assess whether the department follows those processes, and determine how the department handles comments received from the public.

The evaluation will provide citizens information they can use to be more effective in the rulemaking

March 3, 2016

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process. It will help them become more effective in their government decision making and reduce frustrations between citizens and government. It will help the Department of Education to better communicate with citizens, community members and stake holders. It will improve our overall government.

Sincerely,

A handwritten signature in black ink that reads "Rep. Heather Scott". The signature is written in a cursive, flowing style.

Representative Heather Scott

Heather Scott

DISTRICT 1,
Bonner & Boundary Counties

HOME ADDRESS
P.O. Box 134
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House of Representatives State of Idaho

COMMITTEES

Environment, Energy, & Technology

Judiciary, Rules, & Administration

Revenue & Taxation

March 3, 2016

Senator Clifford R. Bayer
Representative John Rusche

Joint Legislative Oversight Committee
Statehouse
Boise, Idaho 83702

Dear Sen. Bayer and Rep. Rusche:

OPE Study Idea:

OPE Study Idea: Does the State Board of Education adequately comply with state law relating to the rule making process? In particular, the negotiated rule making process.

What is the problem? What is its extent?

I have had many complaints from citizens concerning the negotiated rule making process. When citizens contacted the department, they gave limited information. At a hearing, a government agent showed up with a tape recorder and just recorded comments from citizens. There was no negotiating with citizens or explanation of changes in the rules. Citizens were concerned that their feedback was ignored and not taken into consideration. There was no follow-up. Many times in committees, we are told by the agencies that they met with interested parties. How are they finding interested parties? Who are they negotiating with? What does the process look like? Where and when is the negotiation done? Citizens would like to join the process and aren't being allowed, being refused hearings in their community, or do not understand the process.

How do you plan to use the information?

This study could help describe the negotiated rulemaking process and assess whether the department follows those processes, and determine how the department handles comments received from the public.

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Page Two

The evaluation will provide citizens information they can use to be more effective in the rulemaking process. It will help them become more effective in their government decision making and reduce frustrations between citizens and government. It will help the State board of Education to better communicate with citizens, community members and stake holders. It will improve our overall government.

Sincerely,

A handwritten signature in cursive script that reads "Rep Heather Scott". The signature is written in black ink and is positioned below the word "Sincerely,".

Representative Heather Scott

Heather Scott

DISTRICT 1,
Bonner & Boundary Counties

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House of Representatives State of Idaho

COMMITTEES

Environment, Energy, & Technology
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Revenue & Taxation

March 3, 2016

Senator Clifford R. Bayer
Representative John Rusche

Joint Legislative Oversight Committee
Statehouse
Boise, Idaho 83702

Dear Sen. Bayer and Rep. Rusche:

OPE Study Idea:

Do state agencies comply with state law relating to the rule making process? In particular, the negotiated rule making process.

What is the problem? What is its extent?

I have had many complaints from citizens concerning the negotiated rule making process. Many citizens are frustrated with increased rules and regulations and have little information about how to get involved in the process. Citizens usually contact legislators or agencies with concerns after the rules have been adopted, and it is too late for input. Citizens feel their voices are not being heard or taken into consideration. Many times in committees, we are told by the agencies that during the rulemaking process that they met with interested parties, or no one had any input on the rules. How are they finding interested parties? Who are they negotiating with? What does the process look like? Where and when is the negotiation done? Citizens would like to join the process and aren't being allowed, being refused hearings in their community, or do not understand the process.

How do you plan to use the information?

This study could help describe the negotiated rulemaking process and assess whether the department

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follows those processes, and determine how the department handles comments received from the public.

The evaluation will provide citizens information they can use to be more effective in the rulemaking process. It will help them become more effective in their government decision making and reduce frustrations between citizens and government. It will help agencies better communicate with citizens and community members they are to serve. It will improve our overall government.

Sincerely,

A handwritten signature in black ink that reads "Rep Heather Scott". The signature is written in a cursive, flowing style.

Representative Heather Scott

Evaluation Request For OPE

PROBLEM: Every year the legislature is tasked with setting the budgets for all state agencies. With a limited amount of funds available, the legislature is required to evaluate, prioritize and assign funds to all of the various state agencies.

MAGNITUDE OF PROBLEM: In order to judiciously, and fairly set budgets, it is imperative that the legislature be provided with accurate information. During the economic downturn, private and public organization were required to meticulously examine their budgets and reduce costs. During this time, successful organizations were able to identify and implement cost savings measures. However, as the economy has improved, many state agencies have requested and insisted that funding levels be returned to pre recession levels or the "high water mark" budgets.

DESIRED INFORMATION: It is requested that OPE sample a limited number of state agencies and identify the following:

- What specific cost savings measures did your organization identify and implement during the economic downturn?
- How much money was anticipated to be saved and how much money was actually saved as a result of the cost savings measures that were implemented?
- Did cost savings measure have unintended consequences, and were these positive or negative?
- Which cost savings measures are currently being implemented and why or why not?
- Can any of the cost savings measures be implemented by other state agencies?

ANTICIPATED USE OF INFORMATION: This information could be used to help state agencies recognize and implement cost savings measures. This information would also be useful for the legislature when setting budgets as they prioritize the limited funds that are available to the state.

REQUESTORS:

- Representative Jason Monks
- Representative Mike Moyle
- Representative John Vander Woude
- Representative Greg Chaney

- Representative Joe Palmer
- Senator Lori Den Hartog
- Representative Judy Boyle
- Representative Gayle Batt
- Representative Steven Harris
- Representative Tom Daley



House of Representatives State of Idaho

MINORITY LEADER

March 1, 2016

To: Joint Legislative Oversight Committee
From: Representative Christy Perry, Representative Mike Moyle, Representative John Rusche
Subject: Child Protection Services

Previously, the Idaho Office of Performance Evaluations completed a study of the process of committing juveniles to the Idaho Juvenile Corrections Department. The study found some interesting and alarming trends especially as they relate to child protection services. The study noted that "most frequently, juveniles committed to state custody from January to May 2012 showed up in Health and Welfare's child protection and children's mental health systems."

Currently, in 2016 these trends and others were brought to light when the germane committees held a joint hearing. It was at this hearing that numerous people came to testify regarding their dissatisfaction with the current state of Idaho's foster care system. The complaints allege punitive foster child movement, being "blacklisted" by the department, the development of behavioral and attachment issues of the children due to multiple moves, and pleas to improve the system.

Although legislation has been proposed this session to address some of the above issues, it is believed to be only a starting point. After committee testimony on the foster care bill presented this year, there appear to be numerous systemic issues within the Idaho Department of Health and Welfare, which need to be investigated.

This proposal requests the Office of Performance Evaluations to conduct a performance evaluation of our current foster care program, which would involve reviewing at least the following components:

- 1) Workload management
- 2) Caseload management (including interactions with parents and foster parents, and case files)
- 3) Data management
- 4) Hearing processes

The report, "Confinement of Juvenile Offenders" by the Idaho Office of Performance Evaluations has noted that "national literature clearly supports prevention and early intervention for at-risk children and their families" (p. 53). This proposal seeks to expound on those ideas and determine what efforts may successfully be enacted here in Idaho. The evaluation should identify areas which could be improved to

better promote the safety, permanency, and well- being of children in foster care or in State custody. Some specific areas the evaluation should look into are:

- 1) Early intervention strategies to prevent the escalation of family problems which in turn, create the need for foster care services.
- 2) Placement criteria for children in foster care. Specifically, the reasons a child should be moved from foster home to foster home. Are there best practices in other states to learn from?
- 3) How long is a child in the foster care system before a permanent placement is made? And what are the reasons permanent placement may be prolonged.
- 4) What are sufficient reasons for moving children from long term placements?
- 5) Are there better processes to coordinate the care of children in child protection services or fostercare across key stakeholders, including but not limited to, the department of health and welfare, families, health care providers, schools, and law enforcement. (Texas had a great online system to track services and documents through the maze)
- 6) Quality control measures to ensure family plans are being completed in a timely manner, contain accurate information, and follow federal guidelines.
- 7) Help determine reasonable options for placement of resources with an emphasis on maintaining the family unit and minimizing trauma to children.
- 8) Discuss policy options for early intervention and move Idaho away from operating in "crisis mode" in regards to child protection services.

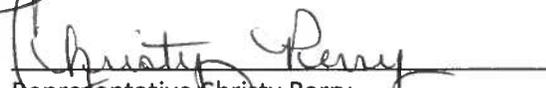
The Idaho Department of Health and Welfare has committed to working with the legislature, utilizing the information the Office of Performance Evaluations can provide to help craft policies which will better serve our young children and minimize the devastating effects on their lives, which remain long after they are removed from foster care.

The ultimate goal is to develop policies which will minimize trauma to children, support the family unit, and lower the societal cost of placing children in child protection services and the juvenile correction system, all of which have long lasting detrimental effects.

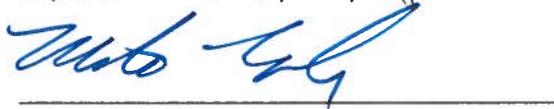
Thank you for your consideration,



Representative John Rusche



Representative Christy Perry



Representative Mike Moyle

Thomas E. Dayley
District 21
Ada County

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Boise, Idaho 83709
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COMMITTEES

Revenue and Taxation
Agriculture
Judiciary and Rules

House of Representatives State of Idaho

To: Senator Clifford Bayer, Co-chairman
Representative John Rusche, Co-chairman
Joint Legislative Oversight Committee

From: Representative Thomas Dayley
Subject: School-Based Medicaid Program (SBMP)

Date: March 3, 2016

The Individuals with Disabilities Education Act (IDEA) requires schools to provide specialized services to students with special needs. To supplement the funding of this federally-mandated program, provisions were made to allow Medicaid-eligible students to access federal funding through the Medicaid program. This funding is at the state FMAP rate, currently approximately 30% Idaho (these are local school district funds) and 70% Federal. **It appears substantial state and local education dollars are being used to supplement this federally-mandated program where federal dollars are available but not being accessed.**

It is important that the functioning of this program be reviewed in order to eliminate any barriers for accessing all available funds. This proposal requests that the Office of Performance Evaluations conduct a general review of the Idaho School-Based Medicaid Program (SBMP) in the Idaho Department of Health and Welfare (DHW) and the Idaho State Department of Education (SDE) by answering at least the following questions:

1. How well are Idaho schools accessing the available federal reimbursement dollars in the SBMP?
 - a. How many SBMP dollars are potentially available to Idaho schools?
 - b. How much SBMP money is being received by Idaho schools?
 - c. How much SBMP money is not being accessed?
 - d. How can Idaho more effectively facilitate access to these federal dollars?
 - e. Do the SDE and the DHW facilitate utilization of the SBMP?
 - f. Is there a policy, law, or rule that creates a barrier to school districts accessing these dollars?
2. What is the DHW estimate of Idaho School-Based Medicaid eligible students and the cost (federal and state) if all eligible students participated in the SBMP? DHW annually estimates the total Medicaid-eligible Idahoans and reports to the governor and the legislature the estimated cost of the SBMP for budgeting purposes. School-based Medicaid students are a component of that total and could be a component of this review and report.
3. School-based Medicaid Payments were \$7.1M in 2004, \$35.2M in 2010 and \$26.8M in 2014. What caused the dramatic fluctuation of the SBMP dollars in Idaho? Provide a report on the reasons for fluctuation in utilization of the federal dollars by individual districts.
4. Of the 175 school districts, 140 have signed agreements with the Medicaid Division to participate as providers. Why have some schools dropped out or reduced participation in this program?
5. How have the audits of the SBMP been conducted in relation to all Medicaid providers?
 - a. What are the primary audit exceptions?

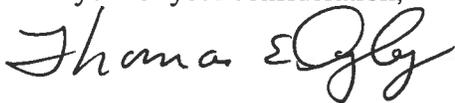
March 3, 2016

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- b. How many of the audit exceptions were for legally-defined reasons?
- c. How many audit exceptions were based on lack of knowledge or clerical-type errors?
- d. Were there any exceptions based exclusively on fraud?
6. How have the penalties for violations in this program been administered?
 - a. What are the reasons for penalties imposed (numbers, reasons, penalty dollars, etc) upon school-based Medicaid providers as compared to all Medicaid providers?
 - b. How does the SBMP provider penalty numbers compare to all of the Idaho program providers (numbers, reasons, penalty dollars)?
7. The DHW collected more than \$2M in penalties between FY2010 and FY2014. Where does the penalty money go in the DHW and how is it accounted for and used? Was it used for training or for other purpose?
8. Are best practices being identified and communicated? If yes, how? If not, why not?
9. What training mechanisms are in place at DHW and SDE? How are these coordinated between the agencies? How is the effectiveness of training measured? Are the agencies' training regimes adequate?
10. Is a technical guidebook available for local providers to help eliminate errors? How is its use monitored?
11. Review the interagency MOU between SDE and DHW. How is the interagency committee governed? How are the members selected? Are all the interests represented?
12. Are there any regulatory requirements that could be adjusted to improve the overall operation of the program? For example, during the 2016 Legislative Session, education stakeholders testified against a DHW Rule pertaining to physician sign/date requirements.
13. How does the SBMP compare to other States?
 - a. Participation in the program?
 - b. Access to federal dollars?
 - c. Training?
 - d. Auditing?
 - e. Best practices
 - f. Any other items found?
14. What can we learn from other states regarding best management practices in the implementation of this program?

It is anticipated that the information in this study can and will be efficiently used to assist the DHW, SDE and school districts to work together more effectively to administer the SBMP in Idaho. This study will also provide additional information to the legislature for use as it makes policy decisions regarding the SBMP.

Thank you for your consideration,



Thomas E. Dayley
Idaho State Representative
District 21



Idaho State Senate

SENATOR LORI DEN HARTOG

March 3, 2016

The Honorable Senator Cliff Bayer and Representative John Rusche
Co-Chairs, Joint Legislative Oversight Committee (JLOC)
Statehouse

H A N D D E L I V E R E D

RE: OPE Evaluation Proposal for Consideration: Efficacy of LHTAC Services

Dear Senator Bayer and Representative Rusche,

Problem: The Local Highway Technical Assistance Council (LHTAC) was established in the late 1980's to assist local districts with engineering advice and guidance. Their role was later expanded (1994, Title 40, Chapter 24) to assist local governments and their highway districts with obtaining and administering federal funding for roadway projects within those jurisdictions. Concerns have been raised related to contracting practices and efficient use of funding particularly in the area of administration. Over twenty years have passed since the creation of LHTAC and many of the factors that led to its establishment have evolved.

Magnitude of Problem: The mission of LHTAC is to assist Idaho's local highway jurisdictions, including the cities, counties, and highway districts across the state with utilizing the available resources for maintenance and construction of Idaho's local highway system in the most efficient and effective manner possible. Their annual budget is approximately \$6.4 million, and LHTAC administers in excess of \$30 million in federal-aid funding. Their reach extends throughout the state to 289 governmental jurisdictions.

Desired Information: It is requested that OPE study and analyze the following:

Determine the portion of LHTAC funds that are consumed by administration overhead, staff salaries and other non-construction and maintenance activities. Compare that to what expenses are for standard local transportation projects less administrative costs.

1. Examine contracting practices of LHTAC to determine whether or not state statutes and policies for contracting and procurement processes have been adhered to and that selection processes are fair and impartial.
2. Determine whether all resources including but not limited to, federal and state funds, have been properly accounted for, and over the last two state fiscal years, have been expended in compliance with all state and federal requirements.
3. Examine the following alternatives for efficiency and cost-effectiveness:
 - a. Have ITD assume responsibility for the work currently being done by LHTAC including but not limited to the management and distribution of federal highway aid dollars.
 - b. Have local highway jurisdictions complete the work themselves or through the use of contractors.
 - c. A combination of the above or other alternatives.

We would like to have this study analysis completed by December 1, 2016 in time for the 2017 Legislative Session.

Thank you for your consideration.

Respectfully,



Senator Lori Den Hartog
Legislative District 22



Senator Steve Vick
Legislative District 2



Senator Bert Brackett
Legislative District 23
Chairman, Senate Transportation



Senator Marv Hagedorn
Legislative District 14



Senator Sheryl Nuxoll
Legislative District 7



Representative Joe Palmer
Legislative District 20
Chairman, House Transportation & Defense



Representative Paul Shepherd
Legislative District 7



Representative Jason Monks
Legislative District 22



Representative Terry Gestrin
Legislative District 8