

Minutes of the Joint Legislative Oversight Committee*
January 27, 2000
House Majority Caucus Room
Boise, Idaho

Co-chair Representative Debbie Field called the meeting to order at 3:10 p.m. Committee members Senators Marguerite McLaughlin, Atwell Parry, and Lin Whitworth, and Representatives Robert Geddes and Margaret Henbest were in attendance. Staff members Nancy Van Maren, Margaret Campbell, and Leslie Clement also were present. Staff Eric Milstead and Ned Parrish attended the meeting in part.

EVALUATION REQUESTS

Co-chair Field announced that JLOC had received two new requests for evaluation that day, both related to the Department of Fish and Game. She called on Representative Lawrence Denney, Assistant Majority Leader, to explain House Leadership's request. Representative Denney said Leadership felt that the issues raised in a letter to Legislators by Mr. George Doval, President, Idaho Shooting Sports Alliance—largely related to agency financial management—should be looked into as quickly as possible. While it may not be possible to review and report on all issues before the end of session, Leadership hoped for a quickly done report that could help in making decisions this session.

Senator Parry moved that the Office of Performance Evaluations proceed as requested by House Leadership on an evaluation related to the financial management of the Department of Fish and Game. Senator McLaughlin seconded the motion, and it passed unanimously by voice vote.

Co-chair Field welcomed Mr. Rod Sando, newly appointed director of the Department of Fish and Game. Co-chair Field invited Ms. Nancy Hadley, Commissioner, Idaho Fish and Game Commission, to address the committee regarding the commission's request for a performance evaluation of selected programs of the department. Ms. Hadley explained that the commission was requesting a more comprehensive evaluation of the department to address Mr. Doval's concerns as well as concerns covered in an outside performance audit in 1994. The commission hoped the evaluation would close some issues and identify others that needed to be addressed. The evaluation would serve as a valuable tool for the new director. In response to questions, Ms. Hadley said the commission had also requested an increase in the scope of its financial audit.

Representative Henbest asked how the scope of this evaluation would be determined. Ms. Van Maren said the commission had expressed interest in sitting down with OPE staff to define a workable scope if the evaluation were selected. That proposed scope would then come back to JLOC for approval before the evaluation began. In response to questions, Ms. Van Maren said she envisioned beginning work on the scope of the evaluation in April.

The committee complimented the commission for requesting an evaluation. **Representative Geddes moved to conduct an evaluation of the Department of Fish and Game as requested by the commission. Representative Henbest seconded the motion, and it passed unanimously by voice vote.**

STAFF INTRODUCTIONS

Co-chair Field welcomed and introduced Ms. Leslie Clement, a new performance evaluator who started work with OPE on January 18.

* As approved by a majority of members, Joint Legislative Oversight Committee (per attached signatures)

FEDERAL MANDATE REVIEWS

The committee reviewed two policy issues related to federal mandate reviews: (1) To what degree should OPE subsequently review action taken as a result of a federal mandate review? And what mechanism would “trigger” that further review? (2) What action should OPE take when Legislators make a request to look into a federal/state issue that has not yet been drafted into the form of a bill?

In discussion, members of the committee discussed the importance of OPE not turning into the office of first response for these issues. Members were concerned the number and nature of requests could snowball, and felt the committee should specify the limits.

Representative Geddes moved that a federal mandate review be done only in response to a request from a germane committee chair or the director of Legislative Services to the co-chairs of JLOC. Further, it should originate from proposed legislation. Senator McLaughlin seconded the motion.

In discussion, members said they hoped that before a federal mandate review is assigned to OPE, Legislators would make use of the resources of LSO’s Research and Legislation Office and the Office of the Attorney General to answer their questions. In addition to germane committees, legislative staff should be able to request a review if they felt there were questions they could not adequately respond to. The committee requested OPE amend the committee rules to reflect the motion and distribute the drafted changes for review prior to approval at the next meeting. Members specified that this process for requesting federal mandate reviews should be effective immediately.

The motion passed unanimously by voice vote.

FOLLOW-UP TO RECENT EVALUATIONS

Employee Morale and Turnover at the Department of Correction

Ms. Van Maren said that earlier in the week, JLOC had received progress reports for December and January from the Department of Correction. In previous action, the committee had requested a six-month update from the department, scheduled to occur in April.

The State Board of Medicine’s Regulation of Physicians and Physician Assistants

Co-chair Field said the evaluation on the Board of Medicine had been very useful, particularly the key finding that there were no written guidelines. She said that she had been working on draft legislation that would be introduced soon.

ADMINISTRATIVE ISSUES

Enabling Statute

Ms. Van Maren explained that under current law, the Legislative Council (a majority body) hired the director of Legislative Performance Evaluations, while thereafter the director served at the pleasure of the Joint Legislative Oversight Committee, a non-partisan body. Senator Parry said that he thought it originally had been established like this because JLOC was not yet up and running. He said he thought the statute should be cleaned up.

Senator Parry moved to prepare an RS to amend the language of Idaho Code §67-457 to reflect that the Joint Legislative Oversight Committee shall appoint the director of Legislative Performance

Evaluations, with the co-chairs of Legislative Council, and the Senate and House minority leaders becoming voting members for that appointment. Senator McLaughlin seconded the motion.

In discussion, committee members agreed this would achieve the two-part goal of: (1) having an evenly bi-partisan committee select the director while (2) involving leadership in the decision. Members also discussed the current statutory 75 percent vote needed to approve the director. Senator McLaughlin said she thought this had been included to ensure the minority party was brought into the decision, but with the proposed amendments, that would no longer be necessary. Members agreed this language should be struck as part of the proposed RS. Co-chair Field asked OPE to prepare legislation incorporating these changes and distribute it for JLOC's review prior to the next meeting.

The motion passed unanimously by voice vote.

Update and Policy Consideration: Requests for Information

Ms. Van Maren explained that in the last three reports, issues surrounding statutory data confidentiality had created an administrative burden for the office (to determine the particular agency's exemptions and attach the correct exemptions to all data furnished) and had resulted in a number of "exposed" individuals who had provided data with no protection of their identity.

Co-chair Field called on Mr. Terry Coffin, Office of the Attorney General, who had worked with the Office of Performance Evaluations in recent evaluations, to address the committee. Mr. Coffin said that the committee should consider how to deal with individuals' statements made to OPE during an evaluation. He said another problem is what to do about information collected that ultimately is not relied on in a performance evaluation. Members discussed how to make sure documents supporting an evaluation were kept available to the public while protecting the individuals that provided OPE information and ensuring they were able to speak freely.

Senator McLaughlin moved to direct the Office of the Attorney General to draft two to three options for legislation that would protect the Office of Performance Evaluations, the Joint Legislative Oversight Committee, and those people providing information in a performance evaluation, and bring the drafts back to the committee for consideration. Representative Geddes seconded the motion, and it passed unanimously by voice vote.

UPDATE ON IMPLEMENTATION OF REPORT RECOMMENDATIONS

The State Board of Pharmacy's Regulation of Prescription Controlled Substances

Ms. Van Maren said that, to date, 6 of the 13 recommendations made in the report on the Board of Pharmacy had been implemented, 5 were in progress, and 2 would require policymaker action. OPE had provided briefings on this evaluation and the Board of Medicine evaluation for both the Senate and House Health and Welfare committees.

Co-chair Field invited Mr. Richard Markuson, Executive Director, Board of Pharmacy, to speak to the committee. Mr. Markuson told the committee that the board was working on draft legislation to deal with information issues that have emerged related to the prescription tracking system.

(Representative June Judd joined the meeting in progress.)

Co-chair Field asked if the tracking software was actively being used. Mr. Markuson said it was, but referred again to the necessity of determining the status of information it collected. Co-chair Field indicated Mr.

Markuson should work with the germane committees on the board's proposed legislation. She thanked him and invited him back in six months for another update.

Management Review of the Idaho Commission for the Blind and Visually Impaired

Ms. Van Maren said that, to date, four of five recommendations made in the report had been implemented, and one required 24 months of follow-up, to occur in October 2000.

Co-chair Field invited Dr. Michael Graham, Administrator, ICBVI, to speak to the committee. Dr. Graham reported on the commission's progress and several initiatives. After responding to questions, Dr. Graham was invited back at the end of the year for another progress report.

Co-chair Field invited Mr. Kelly Buckland, Administrator, State Independent Living Council and one of the original requestors of the evaluation, to speak to the committee. Mr. Buckland said that the joint reporting process had gone much better this year, but that the service numbers had not increased. He would wait until the end of the year and look at the results again, acknowledging that ICBVI may have needed to first stabilize before it would be possible to improve service delivery.

Operations and Effectiveness of the Idaho Electrical Bureau (background paper)

Ms. Van Maren briefly reviewed the history of JLOC's involvement in issues related to the Electrical Bureau. By last June, the Electrical Bureau had addressed one of two issues. Earlier this month, OPE received a report on the second issue—the review of concerns about agency morale. Co-chair Field invited Mr. Dave Monroe, Administrator, Division of Building Safety, to address the committee. Mr. Monroe explained efforts the division had made to address the committee's concerns, and said he was pleased with the impact he had seen so far. Co-chair Field thanked him for his efforts to respond to the committee's concerns.

ANNOUNCEMENTS

Co-chair Field announced that a compilation of agency performance reports was available for each member, consistent with Idaho Code.

Ms. Van Maren provided copies of each "skinny" (a brief evaluation summary) developed for the last three reports.

Co-chair Field asked that JLOC be given time before the next meeting to review draft legislation and the rules, and said a brief meeting would be called next week.

The meeting adjourned at 4:30 p.m.