

Minutes of the Joint Legislative Oversight Committee*

February 10, 2000

Senate Majority Caucus Room

Boise, Idaho

Co-chair Senator Marguerite McLaughlin called the meeting to order at 7:15 a.m. Committee members Senators Atwell Parry, Grant Ipsen, and Lin Whitworth, and Representatives Debbie Field, Robert Geddes, June Judd, and Margaret Henbest attended. Staff members Nancy Van Maren, Margaret Campbell, Ned Parrish, Eric Milstead, and Leslie Clement also were present.

MINUTES

Co-chair McLaughlin opened the meeting by reminding the committee that the minutes from the 1/27/00 meeting had been circulated to members and approved by signature of a majority.

REVIEW OF PROPOSED AMENDMENTS TO ENABLING STATUTE

Co-chair McLaughlin asked Ms. Van Maren to review the requested drafts of proposed legislation (labeled Drafts A, B, and C). Draft A would change the authority for hiring the Director of Legislative Performance Evaluations from Legislative Council (a majority body) to an equally bipartisan selection committee that ensured Leadership would be involved. The selection committee was to be made up of the Joint Legislative Oversight Committee, the chairmen of Legislative Council (of the majority party), and Minority Leaders of both houses. The committee discussed which committee would hear the RS. Members agreed that leadership would make this decision.

Senator Parry moved to accept Draft A and send it to leadership for direction on which germane committee should hear it. Representative Field seconded the motion, and it passed unanimously by voice vote.

Ms. Van Maren reviewed Draft B and Draft C. Draft B “solved” both problems that had arisen—it allowed the identities of individuals providing information in the course of an evaluation to be protected, and it decreased the administrative burden involved in responding to public records requests when the workpapers contained both public and confidential information. The proposed changes: (1) specified that documents transmitted with, attached to, or specifically referenced in reports shall become public with the final report; (2) added that when a performance evaluation is no longer being actively pursued, the workpapers are confidential; and (3) made explicit that the public may receive copies of non-exempt state records from the custodian state agencies. Draft C added “analytical papers” to Draft B’s list of what would become public with the final report. Also, it deleted the condition that an individual first refuse to provide information in the course of an evaluation before his or her identity could be protected.

Members discussed the merits of each piece of legislation. In response to committee questions, Co-chair McLaughlin called on Terry Coffin, Chief, Contracts and Administrative Law Division, Office of the Attorney General, to address the committee. Mr. Coffin further explained the drafts produced by the Attorney General’s Office, and clarified that they didn’t remove an agency’s ability to review and respond to an evaluation report. Further, evaluations focused on performance issues.

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

Representative Henbest asked about committee liability in a case in which someone alleged they felt pressure to resign based on an OPE report. Mr. Coffin responded that people can always sue, and, even under these drafts, the documents would be available in court to the extent they were relevant in the litigation.

In response to committee questions, Ms. Van Maren said she thought it preferable if the evidence supporting findings and recommendations was available to the public, and that finding a way to also address the two problems that had arisen was a challenge. Mr. Coffin said Draft B would be easier to defend, but that the final provision of Draft C (re: individual identities) could be added to Draft B to create a Draft D, if the committee preferred.

Representative Henbest moved to draft an RS combining Draft B with page 2 (lines 22–25), Draft C. Senator Ipsen seconded the motion.

(Senator Parry was excused from the meeting to prepare for JFAC.)

In discussing her motion, Representative Henbest said she was concerned about the lack of clarification to an “analytical paper” (from Draft C). However, she wanted to take the burden off an individual to refuse to provide information. Also, she wanted to ensure OPE could refer public records requests to the custodial agency. Representative Field asked if Draft B allowed the release of enough information to know how OPE arrived at report conclusions. Mr. Coffin said Draft B provided the most discretion in determining what records to “attach to, transmit with, or reference in” a report.

The motion passed unanimously by voice vote. Co-chair McLaughlin said she or Co-chair Field would take the RS when it is ready.

APPROVAL OF RULE CHANGES RELATED TO FEDERAL MANDATE REVIEWS

Ms. Van Maren reviewed the amendments to committee rules as requested at the last meeting. They specified that: federal mandate review requests must be based on draft legislation; requests for follow-up on previous federal mandate reviews are treated as new requests; and legislative staff could request a review through the director in the event those resources had been exhausted in responding to legislative requests.

Representative Geddes moved to adopt the amendments to the committee rules as written. Senator Ipsen seconded the motion, and it passed unanimously by voice vote.

APPROVAL OF PROPOSED SCOPE TO FOLLOW-UP EVALUATION OF STATE AGENCY PASSENGER VEHICLES

Ms. Van Maren reviewed the scope summary provided to the committee for approval. Among other provisions in the scope was a proposal to take a case study approach to answering the committee’s questions about vehicle approval and purchase. Also, she said OPE had begun this evaluation in January, but was now putting it on hold to work on the limited scope evaluation of the Department of Fish and Game. Without comment, OPE was given the approval to proceed as proposed.

UPDATE: LIMITED SCOPE EVALUATION RELATED TO THE DEPARTMENT OF FISH AND GAME

Ms. Van Maren reviewed the request that had been received and the five major areas of concern. Given time limitations, she estimated that OPE could evaluate three of the five major concerns: (1) use of \$2 add-on fee for fish hatcheries; (2) adequacy of financial audits; and (3) need for telephone harvest survey (potential duplication with the hunter harvest report). Given statutory provisions allowing Fish and Game a period of review and comment, OPE had about ten days to finalize their work on the evaluation, estimating a release the end of February.

Co-chair McLaughlin asked Mr. Jeff Youtz, Supervisor, Budget and Policy Analysis, for comment. Mr. Youtz said that JFAC had addressed the \$2 add-on fee issue and found the Department of Fish and Game had not been in compliance with legislative intent in recent years. JFAC had provided the department a supplemental two weeks ago that essentially resolved the issue.

Co-chair McLaughlin said she thought OPE should include this issue in the evaluation so it can be put to rest for all parties involved. Senator Whitworth asked what the status of the other issues would be, saying he wanted to ensure they could be covered in the larger scope evaluation.

ANNOUNCEMENTS

Co-chair McLaughlin announced that OPE would be presenting the committee's budget request to JFAC next week, which included a request for three enhancements.

The meeting adjourned at 8:05 a.m.