

Minutes of the Joint Legislative Oversight Committee*
June 12, 2000
Senate Majority Caucus Room
Boise, Idaho

Co-chair Senator Marguerite McLaughlin called the meeting to order at 8:30 a.m. Committee members Senators Grant Ipsen and Lin Whitworth, and Co-chair Representative Debbie Field, Representatives Robert Geddes, June Judd, and Margaret Henbest attended. Senator Atwell Parry was excused. Staff members Nancy Van Maren and Margaret Campbell also were present. Staff members Ned Parrish, Jim Henderson, Eric Milstead, and Bev Nicholson also attended the meeting in part, as referenced below.

MINUTES

Co-chair McLaughlin opened the meeting by reminding the committee that the minutes from the 3/22/00 meeting had been circulated to members and approved by signature of a majority.

ADMINISTRATIVE UPDATES AND ISSUES

The committee heard a review of JLOC/OPE activities and accomplishments for the 2000 Session, and considered proposed committee rule changes. Two of the proposed changes aligned committee rules with changes to JLOC's enabling statute passed during the 2000 Session. Members also reviewed a proposal to vote on a motion to "receive" an evaluation *prior* to its presentation to the committee. Upon passage of this motion, the report would become public, allowing public presentation and discussion of the report. This would also allow those attending the meeting to receive a copy of the report to follow during the presentation.

Senator Ipsen moved to accept the proposed rule changes and Representative Henbest seconded the motion. In discussion, members clarified that a "vote to receive" did not signal committee acceptance of the report. The committee would continue to take specific action related to report recommendations after the release. **The motion passed unanimously by voice vote.**

The committee considered a proposed policy establishing fees for document retrieval and photocopying. The need for a policy was brought to light when all workpapers for the Board of Medicine evaluation were requested. Much of the language for the policy had been taken from statute and other existing state policies. The policy had been reviewed and approved by the Office of the Attorney General. In response to a question as to how the office would determine an "inability to pay," Ms. Van Maren clarified that the policy was not intended to restrict public records; any claim of an inability to pay would be fully considered.

Representative Henbest moved to accept the policy and Representative Field seconded the motion. In discussion, Senator McLaughlin requested that the policy be amended to reference applicable Idaho Code citations. **The motion passed unanimously by voice vote.**

Ms. Van Maren reviewed the Division of Public Works' cost estimates for the addition/remodeling of OPE office space, and reviewed Leadership's request for OPE to reimburse expenses to the

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

Department of Administration, as possible, with any remaining appropriated funds at the end of fiscal year 2000. In preliminary calculations, it appeared there would be funds at the end of the year to cover most, if not all, of the remodeling expenses. Members were interested in the division's bidding practices and asked how cost estimates had been arrived at. Co-chair McLaughlin asked that the Division of Public Works be invited to the meeting later in the day to provide additional information (refer to p. 8 of the minutes).

Committee members asked if agencies were responding to report recommendations and whether the state had realized savings from the financial impact of evaluations. Co-chair McLaughlin added an afternoon agenda item to discuss report implementation, saying that these issues could be reviewed further in a future meeting (refer to p. 9 of the minutes).

The committee took a short break.

REPORT RELEASE: *THE DEPARTMENT OF FISH AND GAME'S AUTOMATED LICENSING SYSTEM ACQUISITION AND OVERSIGHT*

Co-chair McLaughlin asked those present to introduce themselves (a list of those present is attached). She advised those in attendance that JLOC was different from other legislative committees, in that it did not take testimony; the committee would hear from OPE and department representatives only. She indicated that, pursuant to the earlier rule change, a vote to receive the report would not constitute approval of the recommendations.

Representative Geddes moved to receive the report and Senator Ipsen seconded the motion. The motion passed unanimously by voice vote.

Mr. Ned Parrish, Senior Performance Evaluator, presented a summary of the findings and recommendations of the report and responded to questions from the committee.

Mr. John Burns, Chairman, Fish and Game Commission, provided a response to the report on behalf of the commission and the department. He cited three groups of findings and responded to each.

1. Finding: The initial licensing system was acquired in 1995, contrary to purchasing laws and regulations. Response: None of the commission members was on the commission at that time, nor was the current director. Mr. Burns said that documentation of the process followed was weak. However, he said that the commission had been advised by the Office of the Attorney General that the purchasing process had been legal. He said the Office of the Attorney General would provide a full analysis once they had seen the legal analysis conducted by OPE's contract attorney.
2. Finding: While the current contract complied with applicable laws and regulations, it had some identifiable weaknesses. Also, OPE questioned the sole source designation. Response: Mr. Burns said it was important to realize contracts are negotiated documents that can't be changed unilaterally. Even so, the department would follow OPE's recommendations and work with the contractor to improve contract provisions.

3. Finding: The process of paying the contractor needed great improvement. Response: Mr. Burns said the department agreed this was an area for improvement. Director Sando had begun making improvements to tighten oversight and accuracy of payments to the contractor.

Referencing the agency's written response to the report, Senator Whitworth asked the department to explain how they could have concluded that "no monetary loss had occurred to the sportsman." Mr. Burns clarified that OPE had not found monetary loss through fraud. Senator Whitworth asked further questions about specific instances of monetary loss referenced in the report, especially on pages 13-15, with responses from Mr. Burns and Ms. Van Maren.

Representative Henbest said her chief concern was where to go from here: Had the department put in place quality assurance measures? Had they developed remedies to the payment problems? Mr. Burns said the commission and Director Sando were committed to correcting deficiencies in the payment process. Also, he thought the current contract terms could be improved. In response to further questions, Mr. Burns said there were more vendors available now than there had been, so competitive bidding likely would be considered in 2004, when the current contract expires.

JLOC members asked about the cost to Lottery for developing Fish and Game's system. Mr. Parrish reviewed the few costs Lottery covered under the current arrangement and reported that Lottery had also benefited from the relationship by being able to renegotiate some contract terms. Ms. Van Maren said a management letter had been sent to Lottery regarding concerns about the apparently high cost of hardware purchases negotiated in the current contract, and the issue had been referred to the Financial Audits section of the Legislative Services Office.

Co-chair McLaughlin invited Mr. Rod Sando, department director, to respond to committee questions. Mr. Sando said the department was reviewing quality assurance measures and the adequacy of staff training. Payment provisions in the new contract were simpler to administer than the previous contract, and he hoped to accomplish significant improvements within a year.

Committee members asked what had been done about duplicate payments to the contractor. Mr. Steve Barton, Chief, Bureau of Administration, Department of Fish and Game, said he had adjusted payments to the contractor by the amount necessary to make up the difference. To improve the process, the contractor had agreed to uniquely number each invoice and had designated the department's accounts payable office as the only office to process payments, after review by the Purchasing Office.

Senator Whitworth asked why, even after experiencing a number of problems with GTECH's system, there hadn't been any effort to competitively bid system operation when they recently had the opportunity? Co-chair McLaughlin said the committee could request that the department require competitive bids at the end of the contract term. In response to Senator Whitworth's question, Mr. Parrish clarified that the department had issued informal RFIs (Requests for Information) in 1998 and 1999. The RFI had expressed a preference for maintaining a "joint" relationship with Lottery. It would be hard to determine how this preference had impacted the number of respondents. Furthermore, no RFP had been sent out.

Senator Whitworth asked whether OPE found gaps in the department's documentation, to which Mr. Parrish responded "no." Representative Henbest said she wished to make a "strong recommendation" that future contracts for the licensing system be competitively bid, and that the

department consider separating the system from Lottery's entirely, which could result in increased flexibility.

Representative Geddes moved to refer the evaluation to the appropriate germane committees and request a status report from the department in six months. Senator Ipsen seconded the motion and the motion passed by a majority voice vote. Senator Whitworth was recorded as voting no, indicating that he felt the report was incomplete. He said he agreed with Representative Henbest and added that "we should make sure" the department competitively bids the system next time. Representative Geddes noted that it was JLOC policy to accept recommendations, not to endorse them. Co-chair McLaughlin thanked the department for their comments and said the committee looked forward to the progress report in six months. She commended OPE for a job well done.

The committee took a break.

UPDATE ON IMPLEMENTATION OF PREVIOUS REPORT RECOMMENDATIONS

Alternatives to Incarceration

Ms. Bev Nicholson, Performance Evaluation Specialist, reviewed progress the Department of Correction had made in addressing three specific requests of the committee at the release of *Alternatives to Incarceration* in December 1997. JLOC had requested that OPE staff look into the department's report on progress further, and report back to the committee. In summary:

1. *Improve the data available to evaluate the effectiveness of the substance abuse treatment programs in the prisons.* Currently, the data were not available to fully evaluate the effectiveness of the treatment programs. However, the department had made progress in developing data to track certain programs.
2. *Improve the collection and maintenance of offender data to increase the use of information as a management tool.* The department maintained a database with information for some management purposes, but did not use it to produce reports concerning suitability for alternatives to incarceration.
3. *Collect data necessary to allow future evaluation of the boot camp program at NICI and, in particular, compare the effectiveness of the 120-day and 180-day programs.* The department was currently conducting a study on the NICI boot camp following a study model proposed by OPE.

In response to committee questions about how and to what degree the department's offender data were available to judges, Don Drum, Administrator, Management Services at the Department of Correction, said that the department shares information with the judicial branch. He would check to see if the information being discussed was available on the website.

Representative Henbest moved to forward the status report, especially relating to the second of the three points, to the germane committees and request the department provide information on the relative effectiveness of the 180-day to 120-day boot camp programs,

including offender data reports and the final evaluation report, to OPE. Representative Field seconded the motion and the motion passed unanimously by voice vote.

Employee Morale and Turnover at the Department of Correction

Ms. Van Maren reviewed JLOC's request from its meeting last October that the Department of Correction provide cost estimates for providing five weeks of pre-service training instead of the current three weeks. OPE received the information for the committee in early June and included it in the committee notebooks. Representative Geddes asked if the department had considered a joint training venture with the P.O.S.T. Academy and the private facility staff. Mr. Drum said this was being explored. Next session, the department would probably propose a decision unit related to training to increase costs, although this was still being considered.

Mr. Parrish reviewed department progress in addressing report recommendations. He said the department had convened a number of staff committees to address OPE recommendations. Each committee had outlined plans with recommendations that had been compiled for JLOC's review. Overall, while the department had made good progress in planning, plans had not yet been reviewed by management and timelines had not been set for implementation, so continued follow-up was needed.

Representative Field asked Mr. Drum whether the credibility of the personnel office had increased since the report was released. He responded that some of the recommendations that the department's committees made regarding personnel's operations had been quite personal and management had to make some decisions on how to restructure the operation at the meeting planned for 6/23/00. The department sought assistance from the Division of Human Resources and was considering moving toward more of a human resource approach, rather than simply payroll processing. The current personnel manager was retiring, effective later in the week, although organizational changes would have been considered regardless.

Representative Henbest moved to request another review of progress in six months and requested the department forward the management report from the 6/23/00 meeting to OPE. Representative Field seconded the motion and the motion passed unanimously by voice vote.

The State Board of Medicine's Resolution of Complaints Against Physicians and Physician Assistants

Mr. Eric Milstead, Performance Evaluator, reviewed the board's progress on the four recommendations made to the board. Three recommendations had been implemented and the fourth, creating a plan for improving public outreach and education, was "in process." Two other recommendations required action by policymakers.

Representative Field moved to have the board report on further progress in six months, to include an update regarding implementation of HB628. Representative Judd seconded the motion and the motion passed unanimously by voice vote.

The committee took a break for lunch and reconvened at 1:10 p.m.

The Board of Pharmacy's Regulation of Prescription Controlled Substances

Mr. Milstead reviewed the board's progress on the four outstanding recommendations. Co-chair McLaughlin said Board of Pharmacy members were concerned about how a task force (related to one of the recommendations) would be funded. Committee members discussed the pros and cons of various funding options.

Representative Henbest said she was working with the board to follow through on a couple of outstanding issues identified in the report: establishing a statutory mechanism to govern concurrence between medical boards and establishing a task force that would improve communication between the board and the Department of Law Enforcement, particularly for cases involving citizens. She had reviewed the new tracking system with the board's investigator, and was concerned the system was not being used proactively. In addition, she said that policymakers needed to clarify the responsibilities and accountabilities of the Board of Pharmacy and Department of Law Enforcement as relates to substance abuse among citizens.

Co-chair McLaughlin asked Representative Henbest to report back to JLOC on developments in these areas at the next meeting and work with Mr. Milstead as needed, keeping Senator Ipsen, as chairman of the Senate Health and Welfare Committee, informed of progress.

Representative Henbest moved to request another progress report from the Board of Pharmacy in six months. Senator Ipsen seconded the motion and the motion passed unanimously by voice vote.

Medicaid Reimbursement for Outpatient Occupational and Speech Therapy

Ms. Van Maren reported that the Department of Health and Welfare had included the definition of "on-site" in its rules, implementing the one recommendation from this evaluation.

CONSIDERATION OF PROPOSED POLICIES RELATED TO STATE AGENCY PASSENGER VEHICLES

Ms. Van Maren reviewed JLOC actions coming from the October 1998 evaluation of state agency passenger vehicles. The evaluation had found little management of vehicles statewide. To help improve management, JLOC had requested that the Division of Financial Management (DFM) and Budget and Policy together draft a statewide policy covering vehicle management and bring it back to JLOC for review. Mr. Brad Foltman, Budget Bureau Chief, DFM, addressed the committee and reported that, in response to this request, the Governor was proposing to issue an executive order directing agencies to take certain steps to improve overall vehicle management, as outlined in a letter to JLOC. Mr. Foltman said this would give agencies the most flexibility while ensuring that report recommendations were implemented. Mr. Youtz added that he felt this would address the problems identified behind the report's recommendations, and would be a good way for the Governor to affect all agencies with JLOC's recommendation.

Co-chair McLaughlin thanked Mr. Foltman and Mr. Youtz for their efforts, and both co-chairs asked that JLOC send a thank you letter to the Governor for his leadership in resolving identified problems.

CONSIDERATION OF EVALUATION SCOPE: DEPARTMENT OF FISH AND GAME

Ms. Van Maren recalled for JLOC that the Fish and Game commission had requested a broad-scoped evaluation of the Department of Fish and Game with the understanding that the scope would be finalized after the Legislative session. OPE had provided assistance to the commission in compiling their requested evaluation issues. This list of requested issues had been reviewed with Director Sando and were presented in two separate lists, which also included issues Legislation had requested, in the committee notebooks. The first was the proposed scope, which included two issues. The second was a list of additional issues from which one more issue could be selected. Representative Field asked Mr. Sando if he had a preference for the third issue from amongst the several originally requested. Mr. Sando said he thought a review of the public participation process would be most helpful to the department. Senator Whitworth and Representative Henbest each concurred and said that public participation was an issue that would benefit from an unbiased, independent review. Representative Henbest noted that some of the potential topics would be appropriate to address with departmental internal audits. Co-chair McLaughlin asked Senator Laird Noh, Chairman of the Senate Resources and Environment Committee, for his recommendation on evaluation topics. Senator Noh said he thought public participation was a priority and should be included in the scope.

Representative Field moved to accept the proposed scope, with the addition of public participation as a third area of inquiry, and to encourage Director Sando to begin looking at the other proposed areas of inquiry. Representative Geddes seconded the motion and the motion passed unanimously by voice vote.

STATUS REPORT: EVALUATION OF STATE MEDICAID PROGRAM

Ms. Van Maren briefed the committee on progress in getting started on the Medicaid evaluation for which OPE had received a supplemental appropriation. Also, OPE had put together a unique team of experts to conduct the evaluation. Sjoberg+Evashenk, the former State Auditor of California and his former chief deputy, from Sacramento had been hired as project managers. The Lewin Group, Medicaid experts from Washington D.C., would conduct the majority of fieldwork. Ms. Van Maren said as part of the cost of the project, OPE staff time (less expensive relative to consultant time) had been used to develop the scope and find quality consultants. A Medicaid project budget summary was included in the notebooks.

Ms. Van Maren introduced Mr. Chuck Mulligan, Vice President of The Lewin Group, and Farra Bracht representing Sjoberg+Evashenk. Mr. Mulligan reviewed the proposed scope, which centered on program operations and administrative issues. He said they had been pleased with the scoping work that was accomplished before they were hired. He said some of the issues raised in the focus groups had not been included in the final proposed scope because they were about issues not within the state's control.

Representative Henbest moved to accept the proposed scope and Senator Whitworth seconded the motion. In discussion, Ms. Van Maren said the evaluation should be completed by early December. **The motion passed unanimously by voice vote.**

Ms. Van Maren added that she wanted to ensure it was clear that OPE had selected the consultants. Representative Field said she was impressed with the contractors and thanked OPE for their efforts.

The committee recognized Mr. Karl Kurtz, Director, Department of Health and Welfare. Mr. Kurtz said he was looking forward to the evaluation and felt it would provide another tool for management.

CHECK-IN ON REQUESTS FOR EVALUATION

Previous Requests: Division of Public Works

In October 1999, the committee voted to reconsider a request for evaluation of the administration of Division of Public Works after an interim committee on construction industry laws had completed its work. Ms. Van Maren reviewed the original request and the actions of the interim committee. She projected that resources would become available for evaluation this fall. Representative Judd said she thought the study should still be conducted.

Representative Geddes moved to postpone the study until resources became available, subject to committee approval at that time. Representative Judd seconded the motion and it passed unanimously by voice vote.

ADMINISTRATIVE UPDATES AND ISSUES (CONT. FROM MORNING AGENDA)

Co-chair McLaughlin invited Mr. Larry Osgood, Administrator, Division of Public Works, to respond to committee questions regarding OPE's remodeling. Mr. Osgood explained differences in how large and small jobs were handled. The 1,000 square feet of remodeled space in OPE was estimated to cost \$24,000, a rate of about \$24 per square foot. He said the typical cost is \$25-\$50 per square foot. At over \$50 square foot, there was a question as to whether it was less expensive to rebuild. Co-chair McLaughlin clarified that the cost of the asbestos removal in OPE would be handled separately under another appropriation and would not be included in the cost to the agency. She thanked Mr. Osgood for meeting with the committee on short notice.

CHECK-IN ON REQUESTS FOR EVALUATION (CONT.)

Previous Requests: Delivery of Community College Services in Idaho

Ms. Van Maren reviewed the status of this previous evaluation request. JLOC had asked Representative Jones to prioritize the issues in the request if he still wanted to move forward. Senator McLaughlin said she thought the questions posed were being addressed through other avenues. **The committee took no further action on this request.**

New Requests: DEQ's Air Permitting Program

Ms. Van Maren reported that the Idaho Association of Commerce and Industry (IACI) had requested an evaluation of the Division of Environmental Quality's (DEQ's) air permitting program. IACI requested that an independent performance audit of the efficiency of DEQ's operations be conducted, in light of DEQ's projection of insufficient funding that could require an increase in permitting fees.

Senator Ipsen said he felt this was not a good time for the evaluation because of issues currently in flux, but more information should be available to the committee at its next meeting.

Representative Field moved to write IACI a letter explaining that resources for an evaluation were unavailable and that an evaluation would be reconsidered when resources became available later in the year. Representative Henbest seconded the motion and the motion passed unanimously by voice vote.

The committee discussed the process of receiving requests for evaluation. Representative Geddes wondered if the committee should consider routing evaluation requests through the affected germane committees for consideration prior to JLOC making a decision to pursue. Representative Judd said, with apparent agreement from some other members, that she was not sure this would be a good idea as it might end up restricting what could be evaluated. Co-chair McLaughlin requested that this issue be put on the agenda for discussion at the next meeting.

ADMINISTRATIVE UPDATES AND ISSUES (CONT. FROM MORNING AGENDA)

In response to questions that were posed earlier in the day, Ms. Van Maren reviewed a summary of agency responses to report recommendations and the total cost savings realized to the state. In discussion, Representative Geddes suggested that findings of savings be referred to JFAC so the amounts could be subtracted out of the agency's budgets. Ms. Van Maren said she would work with Budget and Policy Analysis to go beyond the summary letters of referral that already go to JFAC.

EXECUTIVE SESSION—ANNUAL REVIEW OF DIRECTOR (I.C. § 67-2345(b))

Representative Field moved that, in accordance to Idaho Code § 67-2345, JLOC meet in executive session to review and discuss the salary of OPE's director. Senator Whitworth seconded the motion and the motion passed unanimously by roll call vote.

At the completion of the committee's executive session, **Representative Field moved to increase the salary of the director of the Office of Performance Evaluations by 3% effective the first pay period of FY2001. Senator Whitworth seconded the motion and the motion passed unanimously by voice vote.**

The meeting adjourned at 3:20 p.m.