

Minutes of the Joint Legislative Oversight Committee  
May 17, 2001  
House Majority Caucus Room  
Boise, Idaho

Co-chair Representative Debbie Field called the meeting to order at 9:05 a.m. Committee members Co-chair Senator Lin Whitworth, Senators Grant Ipsen and Stan Hawkins, and Representatives Maxine Bell, Margaret Henbest, and Donna Boe attended. Senator Betsy Dunklin joined the meeting in progress. Staff members Nancy Van Maren and Margaret Campbell also were present, as were other OPE staff intermittently throughout the meeting.

Co-chair Field welcomed the committee and indicated minutes from the previous meeting had already been approved. She advised those in attendance that JLOC was different from other legislative committees, in that it did not take testimony. For the report release, the committee would hear from OPE and agency representatives. Any exception would need approval by the committee.

**“SINE DIE” REPORT OF JLOC SESSION ACTIVITIES AND DISCUSSION OF PROCESS  
IMPROVEMENTS**

Ms. Van Maren reviewed the unique qualities of the committee as compared to other legislative committees, and various actions the committee could take to encourage implementation of report recommendations as per committee rule. The committee discussed options for strengthening the involvement of germane committees in the evaluation process, such as inviting germane chairs to annually address JLOC with concerns. Senator Ipsen referred to the recent Medicaid evaluation and said that agencies as well as germane committees have the right to disagree, even when presented with an audit's facts and figures. Representative Bell said she thought bringing germane committees in could create false expectations, particularly, as others pointed out, when there were insufficient resources to do an evaluation in response to every request.

Co-chair Field said that JLOC had acted as a springboard to a number of good pieces of legislation to help fix and move forward better practices. Representative Henbest suggested that JLOC consider what had worked in the past and use those routes. Ms. Van Maren mentioned that, previously, JLOC had also discussed the merits of OPE working with bill drafters on behalf of the committee to develop draft legislation for committee consideration and endorsement (which could be sent through the chairs). Co-chair Field thought this was a good suggestion for use in the future.

**REPORT RELEASE: *IMPROVEMENTS IN DATA MANAGEMENT NEEDED AT THE COMMISSION OF PARDONS AND PAROLE: COLLABORATION WITH THE DEPARTMENT OF CORRECTION COULD SIGNIFICANTLY ADVANCE EFFORTS***

Ms. Van Maren provided an overview of the evaluation request: the evaluation was called for in response to OPE's inability to evaluate rehabilitation and parole due to a lack of electronic data.

In addition, JLOC had requested that OPE look at the Department of Correction's proposed acquisition of a new offender information system. **By unanimous consent, the committee agreed to receive the report,** and the report was distributed.

Ms. Lewissa Swanson and Mr. Paul Headlee, Performance Evaluators, presented a summary of the findings and recommendations of the report. Co-chair Field thanked them, as well as team lead Eric Milstead, for their hard work on this project.

Co-chair Field called on Ms. Olivia Craven, Executive Director, Commission of Pardons and Parole, to respond. Ms. Craven introduced commissioners Del Ray Holm, Dr. Russell Newcomb, and E. Bud Brinegar. Ms. Craven said that other commission needs had overshadowed her agency's data system needs over time. She added that she was working with the Department of Correction now on two reporting projects that would save a great deal of time.

Ms. Craven said that she and two of her staff had reviewed the Utah system. She said that even though the Utah commission operated two systems (one interactive and another standalone), she thought the system could be modified to meet the commission's needs. In regards to the three new positions received for FY02, Ms. Craven emphasized that they were needed for the positions as requested. The needs of the commission were many and she had attempted to keep budget requests at a minimum.

Senator Hawkins said Ms. Craven's comments appeared to contradict the report's apparent criticism of the Utah system. Was she confident that the system could be made to fit her agency's needs? Ms. Craven said the system was easy to use. Utah was working on a parole module that was not done yet, but Utah was willing to allow Idaho's input in the development. In regards to a question about costs as compared to those of other states', Ms. Craven said budget analysts were working on this part of it. Ms. Craven affirmed that better cooperation would be needed if the department were the lead agency on this, and wanted JLOC to know that communication between the two was now very good.

In response to questions, Ms. Craven said the commission had held 1,293 parole hearings last year, with a "return rate" (release/violations) of 40%. Responding to a statement Senator Ipsen heard from a hearing officer, Ms. Craven said the job of employees was to help inmates prepare to get out and help them stay out.

Representative Henbest said she had attended the Legislative Council meeting on May 16 where Legislative Audits presented national statistics on the success rate of IT systems. Given figures that indicated that approximately 9% of projects were successful, 60% fell short of expectations, and 30% failed outright, why wouldn't the commission and the department want to step back and investigate further, rather than quickly putting together a proposal and committing the state to a level of financial involvement? Ms. Craven said she was willing to look at anything. When she saw the Utah system, she saw an *easy* system. She had to rely on computer people to know what options were out there. Senator Hawkins said that he was curious how, 60 days ago, the commission had not looked at the Utah system, but now it was endorsing the system. Why was that? Ms. Craven repeated that it was an easy system to use.

Representative Henbest said it appeared Ms. Craven had put a low priority on obtaining an IT person because of other needs. How could the commission transition to the Utah system with current staff? Ms. Craven said the department and the commission were now working together and the department had said it could provide the commission with the IT services needed. In response to questions as to whether she would send an administrative staff person rather than a hearing officer to attend computer meetings, Ms. Craven said the hearing officer was the only staff person she could spare. She would not change who was being sent, but make sure he did a better job.

Senator Dunklin asked to what degree the commission had taken advantage of Legislative Audit's IT project guidance and the Department of Administration's group in researching the Utah system. Co-chair Field called on Mr. Brad Alvaro, Information Services Manager, Division of Management Services, Department of Correction, to address the question. Mr. Alvaro said he attended Information Technology Resource Management Council (ITRMC) meetings quarterly and had contacted ITRMC staff about this project. He was not aware of Legislative Audit's guidance. He noted that he saw the purchase of the Utah system as an upgrade and not a replacement of their current system.

Co-chair Field called on Dr. Russ Newcomb, Parole Commissioner, to address the committee. Dr. Newcomb said he thought the hearing officer program had helped to reduce the commissioners' intense workload, which entailed hearings two weeks per month in addition to preparation time. The executive director attended the hearings and formulated handwritten documents. He did not know where she found the time to track everything by hand and said she needed an automated system. He suggested the needed funds be obtained through Tax Commission efforts to collect on taxes owed by drug dealer income. He asked the committee to please get Ms. Craven the help she needed with record keeping.

Co-chair Field asked if a computer system would help reduce commissioners hearing preparation effort. Dr. Newcomb said easy retrieval of data could speed up decision-making, as was happening in a program in Rhode Island where commissioners had laptops to draw up the needed information. Representative Bell asked why the commission had not requested any funding for a data management system in past budget requests. Dr. Newcomb said, in his view, it was a result of the executive director's sense of priorities—she sacrificed her own data tracking time to get a hearing officer program through.

Members asked Ms. Cathy Holland-Smith, Budget and Policy Analysis, and Randy Tilley, Division of Financial Management, if IT personnel could be shared between the commission and the department. Ms. Holland-Smith said that when the commission was taken out from the Board of Correction, it was agreed that the department would support several commission functions, including data systems. She said the Division of Financial Management (DFM) had the legal authority to change any positions that have been appropriated by the Legislature. Mr. Tilley added that DFM was hesitant to change positions unless there were significant reasons. Representative Henbest asked if staff workload would be reduced with an automated system. Mr. Tilley said the impact would be significant, but probably not as big as the committee may

think, because the department had the Offender Tracking System. The key was to have people put information into the system so it could be retrieved.

Co-chair Field called upon Mr. Ralph Townsend, Acting Director of the Department of Correction and Chairman of the Board of Correction, to address the committee. With thanks to OPE for the evaluation, Mr. Townsend said the board was not committed to any particular system. Also, the department would do whatever it could and could afford to support the commission. Funding was a key issue: he acknowledged the department did not have all the needed information when it applied for the grant. They had decided that if it would meet their needs and be cheaper until summer, it should be pursued quickly. He said he had no problem with the report's recommendations and would look at all of them.

Representative Bell asked what the department would do if the grant were not approved. Where would they get funding? Mr. Townsend said they did not budget for the system, but may be able to find some of the needed funds.

For clarification, Ms. Van Maren said the department had been told that the Utah system would be selling the source code back to Informix (the system developer) this summer, which could increase the cost. However, Informix had just been sold to IBM, which was developing a different system. Senator Hawkins asked if the sale would render the Utah system obsolete, to which Ms. Van Maren responded that it was unknown.

Senator Hawkins asked how the department would ensure strong communication between the two agencies. Mr. Townsend said all he could do is give assurances today that they were committed to improving communication. Dr. Newcomb added that Mr. Townsend was a "breath of fresh air," as he listened and acted on the commission's concerns.

Senator Hawkins said he remained unconvinced the Utah system purchase was the best option, especially considering costs in other states and the impact of the sale of Informix to IBM. Senator Dunklin echoed Senator Hawkins. She said the evidence nationally indicated a risk of high cost—more analysis needed to be done up front. She wanted to urge the department's consideration of legislative audit's model for reviewing IT systems. Also, she agreed with Commissioner Newcomb that the commission needed a system, but would it get the right system and does the commission have the personnel to advise in this matter?

Ms. Van Maren recapped the two issues of the report: the commission's data needs and the proposed acquisition of the Utah system by the Department of Correction. As OPE had emphasized in the report, improvements could be made with few additional resources. At present, the commission did not have the resources needed to fill IT needs; the commission needed another FTE dedicated to data management. Ms. Craven said Mr. Alvaro would give her reports so that the commission didn't have to take information from the computer screen. She said it was not a perfect system, but would like time to see what improvements this could make.

The committee discussed adding an IT member to the commission and where that person would come from. They discussed whether the commission could share costs for a position with the

department and one member stated that the department would probably have a vacant position that could be shifted over. Senator Hawkins said he thought it was critical to get an additional employee for this purpose. Members suggested hiring an IT person from the three new FY02 positions and then requesting that new position in January, a move that Ms. Craven opposed for reasons already stated. In response to committee questions as to whether a department IT person could be shifted to the commission, Ms. Holland-Smith said she recommended using existing resources. Co-chair Field asked if the budget analysts, the commission, and the department could have a plan of action ready for the committee when it meets again in June. Mr. Tilley responded "absolutely."

**Representative Henbest moved that the DFM and LSO analysts, the Department of Correction, and the Commission of Pardons and Parole come back to JLOC with a written action plan, including consideration about the sharing of IT staff, and that the Department of Correction apply legislative audit's guidance on proposed IT acquisitions in regards to the Utah system and report on the results at the next JLOC meeting. Senator Dunklin seconded the motion, and the motion passed unanimously by voice vote.**

*The committee took a lunch break.*

**PROGRESS REPORTS: *INMATE COLLECT CALL RATES AND TELEPHONE ACCESS***

Co-chair Field handed out copies of letters the Senate Judiciary and Rules Committee had sent to JLOC during last session, stating majority and minority views on the report's recommendations. Ms. Leslie Clement, Performance Evaluator, reviewed the department's progress in implementing the recommendations. She said the department was finalizing work on an RFP for a new contract. While, according to the department, the new contract may not reduce rates overall, it was designed to make rates consistent statewide. The RFP also removed the commission rate from consideration during the proposal evaluation process, eliminating any incentive to accept the bid with higher rates. A commission and/or franchise fee may be added during the negotiation stages.

Senator Dunklin said she was pleased with the department's decision to separate the commission from the phone rates. Co-chair Field called on Mr. Don Drum, Department of Correction, to address the committee. Mr. Drum said the department was going to try to get the lowest possible rates, then negotiate any added costs, such as a commission or franchise fee. The commission or franchise fee would be set at the level needed to maintain past revenues, but not go beyond. The department projected they would have a contract in place in August 2001.

**Senator Whitworth moved to request a progress report in six months. Representative Henbest seconded the motion, and it passed unanimously by voice vote.**

**PROGRESS REPORTS: *EMPLOYEE MORALE AND TURNOVER AT THE DEPARTMENT OF CORRECTION***

Co-chair Field opened discussion saying the committee understood the department was in a state of flux. Mr. Ned Parrish, Principal Performance Evaluator, reviewed progress on implementation of the recommendations. All of the previously outstanding recommendations were still "in process" and progress appeared to have slowed.

Co-chair Field called on Mr. Drum to respond to questions, as Mr. Townsend had to leave. Mr. Drum said the department was committed to improving morale, and believed that communication was a key. Also, the department had used 1% of the budgeted CEC to move staff salaries closer to policy.

Senator Hawkins asked if there were any new lawsuits from employees and what the status was on ongoing lawsuits. Mr. Drum said he was not aware of any "big problems." Probably the biggest were two fairly well known ones, but he could not discuss them.

Representative Henbest said that because of the state of flux at the department, it was important to continue oversight on recommendations still in progress. **She moved to request a progress report from the department in six months. Senator Whitworth seconded the motion and it passed unanimously by voice vote.**

**PROGRESS REPORTS: IDAHO'S MEDICAID PROGRAM: OPPORTUNITIES FOR COST SAVINGS**

Ms. Leslie Clement, Performance Evaluator, reviewed progress on implementation of report recommendations. She reported on those areas where implementation had been completed or was nearly complete, then summarized the remaining recommendations that were "in process."

Co-chair Field called on Karl Kurtz, Director, Department of Health and Welfare, to address the committee. Mr. Kurtz said the department was concentrating on two of the biggest areas: pharmacy issues and prior authorization and concurrent review (utilization management). The department had an aggressive plan and was involving quality improvement subcommittees and working on negotiating rules.

Representative Boe asked if the occupancy rate in Veterans' homes had dropped because, under Medicaid requirements, it was more difficult to qualify. Mr. Kurtz said eligibility requirements for homes and individuals were different. Even so, admission requirements had remained the same. Senator Hawkins asked how the state went from a waiting list to a vacancy list. Mr. Kurtz said Mr. Gary Bermeosolo, Division of Veteran Services, could probably answer that question.

**Representative Henbest moved to request a progress report in six months, with special focus on prior authorization and concurrent review. Representative Boe seconded the motion, and it passed unanimously by voice vote.**

**PROGRESS REPORTS: THE STATE BOARD OF PHARMACY'S REGULATION OF PRESCRIPTION CONTROLLED SUBSTANCES**

Co-chair Field said Mr. Mick Markuson, Executive Director, Board of Pharmacy, was unable to attend the meeting. Mr. Kent Nelson, Deputy Attorney General assigned to the Board of Pharmacy, would be available to answer questions. Mr. Eric Milstead, Senior Performance Evaluator, reviewed progress on implementation of the one outstanding recommendation. The recommendation was to establish an interagency taskforce to coordinate efforts and make recommendations on the handling of controlled substance complaints about citizens.

Representative Henbest asked for more time to work on the recommendation. She had learned that an interagency taskforce in another state had gotten to the illegal use of controlled substances. We had a great tool, but it was not being used outside the agency.

**Representative Henbest moved to request a progress report in six months. Representative Boe seconded the motion, and it passed unanimously by voice vote.**

Co-chair Field said that progress reports on the Department of Fish and Game would be tabled until the next meeting.

**REVIEW OF RESPONSES RECEIVED TO TWO PREVIOUS JLOC REQUESTS: PHARMACY  
“FREEDOM OF CHOICE” ISSUE**

Ms. Van Maren recapped the issue brought to the committee—the allegation that some school district health plans required teachers to purchase pharmaceuticals through out-of-state mail-order pharmacies—and the response received from the Department of Insurance in response to JLOC’s referral. Representative Henbest referred to the Department of Insurance letter and asked Ms. JoAn Condie, Executive Director, Idaho State Pharmacy Association, if she had found the department’s response satisfactory. With unanimous consent to address the committee, Ms. Condie said that pharmacists were aware that complaints needed to be filed through the Department of Insurance. She said it was her hope that pharmacists wouldn’t have to go through the department for each case as it was burdensome to meet with requirements and pharmacy “Freedom of Choice” was a state law.

Representative Henbest asked if providers were denying in-state pharmacy contracts. Ms. Condie said the providers were not denying contracts, but were delaying sending contracts out to see if the pharmacies were interested in meeting the terms of the contract.

Representative Henbest said she thought the concern was outside the purview of JLOC, but that it should be communicated to the Department of Insurance that a provider was not playing fair. Was a statutory fix needed? **By unanimous consent, the committee decided the co-chairs should send a letter about this discussion to the Department of Insurance, copied to the appropriate germane committee chairs.**

**REVIEW OF RESPONSES RECEIVED TO TWO PREVIOUS JLOC REQUESTS: BONNEVILLE  
COUNTY COURTS ISSUE**

Ms. Van Maren recounted that the committee had received an anonymous letter of concern about the Bonneville County Courts and referred the concern to the administrative director of the courts, Ms. Patricia Tobias, for review. Ms. Tobias had provided one response and then another, including a letter from Judge James C. Herndon. Most concerns appeared to have been addressed in the two responses.

**Senator Ipsen moved to discontinue any further action on the request until and unless the committee received a signed letter. Senator Dunklin seconded the motion, and it passed unanimously by voice vote.**

#### **CONSIDERATION OF REQUESTS FOR EVALUATION: EARLY CHILDHOOD EDUCATION**

To introduce topic selection, Ms. Van Maren reviewed the workload of the office, indicating the office could take on one new evaluation today and possibly another at the June meeting. She went through the guidelines for topic selection to assist in deciding between requests.

Senator Dunklin summarized her request for an evaluation of school readiness programs. She acknowledged it was a big area that was not overseen by any particular department in government. There appeared to be two primary gaps of information: (1) the number of children who needed these programs, how need was defined, which needs were met by which program, and to what degree the programs addressed critical skills, etc.; and (2) we did not have a statewide licensing program for child care, so there was no way to collect the information (that a licensing agency might otherwise have). However, the second issue may be beyond the scope of the evaluation being considered. She believed that policymakers should examine the programs and put funding where it would have the greatest effect possible. Finally, other states had studied this issue and we might be able to benefit from their research.

Co-chair Field recommended that the committee consider all requests for evaluation before selecting a topic.

#### **CONSIDERATION OF REQUESTS FOR EVALUATION: ASSESSING THE APPLICATION OF PROVEN PRACTICES FOR STATE VEHICLE MANAGEMENT**

Senator Hal Bunderson requested an evaluation of the need and value of a statewide fleet management system. This would put cars into the policy range, rather than making appropriation decisions one at a time. The Transportation Department already had a good system and Fish and Game had requested funds to put one in place, but it wasn't funded. A statewide fleet management system could cut costs; as it was, the state's cars were not managed well—we did not even know what we owned. He thought a study of this nature fit JLOC's guidelines for topic selection and suited JLOC's roles quite well.

Representative Henbest indicated JLOC had been looking at fleet management issues for several years. Her understanding was that the Governor had issued an executive order directing better agency management of vehicles last fall and that JLOC had decided to wait on further reviews until time had passed to allow agencies to implement the executive order. Co-chair Field

clarified that JLOC had decided to wait until September 2001 and then see how agencies had done in improving vehicle management.

Senator Bunderson said the scope of this proposed evaluation may go beyond the executive order. With a statewide management system, it would allow agencies to access a centralized registry system, possibly lead to common standards among diverse systems, and allow JFAC to have knowledge about state fleets. He had told Fish and Game he would look at their proposal for fleet management during the interim, and he was bringing forth this request in response to his promise. This issue may be on the JFAC agenda for this summer's meeting.

*Representative Bell left the meeting early.*

#### **CONSIDERATION OF REQUESTS FOR EVALUATION: ALTERNATIVES TO PRISON AND CURRENT RELEASE PRACTICES**

Representative Boe introduced a three-part request for an evaluation, developed out of an unsuccessful request for an interim committee to study alternatives to incarceration. Specifically, she explained questions related to good time credit, the housing of inmates in county jails, and special needs of female inmates and their children.

Senator Hawkins said he strongly supported this request and thought the evaluation was critical. This was the first time he had seen cooperation between the Commission of Pardons and Parole and the Department of Correction. Representative Henbest agreed and said it should be considered in light of the huge costs involved. She said she was supportive of the request for an evaluation of fleet management, but wanted to wait until September before making a decision. On the other hand, she was concerned an evaluation of early childhood education was not under the purview of JLOC since it was not under state jurisdiction.

In response to committee questions, Ms. Van Maren said it would be better to study one correctional issue at a time. She said she could develop a scope on each of the three and the committee could select an evaluation at the next meeting.

**Representative Henbest moved that OPE prepare scoping papers for each of the three requested issues regarding alternatives to prison and current release practices. Senator Hawkins seconded the motion, and it passed unanimously by voice vote.**

Senator Dunklin asked if OPE could also provide a scope for evaluating early childhood education issues. She said she may want to introduce legislation next session and hoped for answers before then. Senator Whitworth agreed and said both requests were important and could be considered at the June meeting.

**Senator Dunklin moved to develop a fourth scope on early childhood education issues for discussion at the next meeting. Senator Whitworth seconded the motion, and it passed unanimously by voice vote.**

**EXECUTIVE SESSION—EVALUATION OF DIRECTOR (I.C. § 67-2345(b))**

**Representative Field moved that, in accordance to Idaho Code § 67-2345, JLOC meet in executive session to conduct a review of OPE’s director and discuss her salary. Senator Whitworth seconded the motion and the motion passed unanimously by roll call vote of those in attendance.** Representative Boe was not in attendance during roll call, but returned for executive session.

Upon exiting executive session, **Senator Whitworth moved that Director Van Maren receive a 4.5% pay increase effective for FY2002, consistent with the CEC funded by the Legislature. Senator Dunklin seconded the motion, and it passed unanimously by voice vote.**

Co-chair Field stated the committee felt Ms. Van Maren should be paid consistent with other supervisory-level legislative staff, but members were uncertain as to how to go about this. **Representative Boe moved to look into the possibility of providing Ms. Van Maren an “exit bonus” at the time of her departure from the position and to discuss what was learned at the next meeting. Senator Ipsen seconded the motion and it passed unanimously by voice vote.**

**Senator Dunklin moved to raise Jim Henderson’s salary temporarily for the period during which he would assume OPE’s “acting director” position, while Ms. Van Maren was on maternity leave (planned for July and August 2001). The amount would be the calculated proportion of a \$10,000 annual increase in salary. In addition, the committee would seek to have Mr. Henderson’s accrued comp time paid off at the end of this period. Representative Boe seconded the motion and it passed unanimously by voice vote.**

Co-chair Field announced that a search committee would be formed, likely from JLOC, to begin a search for the next director of OPE, and that the Speaker and Pro Tem would name the chairs of the search committee, likely to be the co-chairs of JLOC. Upon returning from maternity leave, Ms. Van Maren would work half time until her replacement was in place. She thanked Ms. Van Maren for all her contributions to OPE, including starting the office and helping guide the progress that had been made since the beginning.

Members then discussed possible dates for the June meeting and agreed to June 21, from 10–2 with a working lunch, pending the agreement of those members no longer present. (The time was subsequently changed to 10–3:30).

*The meeting adjourned at 3:30 p.m.*