

Minutes of the Joint Legislative Oversight Committee*

February 4, 2002

House Majority Caucus Room (moved from Senate Majority Caucus Room)
Boise, Idaho

Co-chair Senator Betsy Dunklin called the meeting to order at 4:40 p.m. Committee members Co-chair Representative Debbie Field, Senators Grant Ipsen, Stan Hawkins, and Bert Marley, and Representatives Maxine Bell, Margaret Henbest, and Donna Boe attended. Staff members Nancy Van Maren and Margaret Campbell also were present, as were other OPE staff intermittently throughout the meeting.

Co-chair Dunklin opened the meeting with a review of the previous meeting minutes.

Representative Field moved to approve the minutes of the November 6, 2001 meeting and Representative Boe seconded the motion. The motion passed unanimously by voice vote.

PUBLIC WORKS CONTRACTORS LICENSE BOARD

Mr. Ned Parrish, Principal Performance Evaluator, recapped the major issues included in the evaluation released November 2001, and reviewed the legislation JLOC had requested be drafted to give the administrator of the Division of Building Safety the authority to respond to complaints of unlicensed practice.

Co-chair Dunklin called on Representative Max Black, Chair, House Business Committee, to respond to JLOC's request that the House and Senate germane committees indicate any action they intended to take with the report. Representative Black thanked the committee for the evaluation and reported that he and Senator John Andreason, Chair of the Senate Commerce and Human Resource Committee, had reviewed the draft legislation and would co-sponsor the legislation. Also, the division administrator had spoken with the board and they were in agreement with the legislation.

Co-chair Dunklin invited Mr. Dave Munroe, Administrator, Division of Building Safety, to update the committee on steps he had taken to address the report recommendations since the report was released. Munroe detailed how he had reorganized the function after determining that two people could do the work of five; the savings would total about \$121,000 per year. Otherwise, he was trying to implement the report recommendations, but needed more time.

Senator Hawkins asked why the legislation was needed, given that a license was required to submit a bid. Parrish explained that often that's where the complaints arose and Munroe responded that sometimes people don't do what they are supposed to do. To educate public entities, the division was developing a new packet that would thoroughly review licensing requirements. In addition, the board began work "today" setting clear applicant work standards. In response to committee discussion about working with the State Tax Commission to obtain certain information, Munroe, who it was reported initially had thought it would not be possible, said the division's legal counsel was working on it.

* As approved by the Joint Legislative Oversight Committee (signatures attached).

AGENCY STATUS REPORTS ON IMPLEMENTATION OF PREVIOUS REPORT RECOMMENDATIONS

Medicaid: IDHW Has Many Opportunities for Cost Savings (Report 00-05)

Ms. Van Maren explained that the committee had copies of a progress report prepared for the last meeting (when the update had been tabled) and a current update for this meeting. Co-chair Dunklin called on Karl Kurtz, Director, Department of Health and Welfare, to address the committee. Kurtz said the department had implemented 13 of 18 recommendations and focused his comments on the ones still underway. The department was actively attempting to expand the Healthy Connections program and was conducting a pilot program in Lewiston for utilization management.

Representative Field asked Director Kurtz if it was true that a Medicaid enrollee had to use his or her benefits every 30 days or lose them. Kurtz said it was the first time he had heard this concern and assured the committee there was no “use it or lose it” Medicaid requirement.

Co-chair Dunklin called on Tina Basel, Management Assistant, Division of Veterans Services, to respond to committee questions about the progress report on evaluation issues regarding veterans services. In response to questions, Basel said the conversion of veterans home to Medicaid had not saved money as anticipated, given the cost of certification, and the division would be approaching JFAC for a supplemental appropriation. However, the division projected cost savings in the next two years if beds were kept full. Basel confirmed that under Medicaid rules, patients in veterans homes received like care whether covered by Medicaid or other sources. Representative Bell said there was a JFAC subcommittee looking at the funding issues.

Senator Ipsen said he thought a large number of the report’s recommendations could be answered from the agency’s report to JFAC. Representative Bell noted that the remaining recommendations were still “in progress” and should be reviewed again.

Representative Henbest moved to request another progress report of the Medicaid evaluation in six months and Representative Boe seconded the motion.

In discussion, Senator Ipsen said the committee should also review the 90-day follow-up report from the most recent legislative financial audit. He said with all the information available, another progress report would be short because most of the questions would already be answered. Senator Hawkins said he was concerned there were many issues that had not been addressed today, such as the issues related to fraud investigations. Representative Field said it would be helpful to have everyone involved in these issues in one place, so they all received the same information. Representative Henbest voiced frustration with the fragmentation involved in considering these issues. She felt that everyone who was looking at this set of issues should have the same documents and information.

With concurrence of the second, Representative Henbest amended her motion to invite the Governor’s office and germane chairs to the next progress report in six months. The motion passed unanimously by voice vote.

The State Board of Medicine: A Review of Complaint Investigation and Adjudication

Mr. Ned Parrish reviewed the board's efforts to implement recommendations from the report released in June 2001. When asked why so much was "in progress" rather than "resolved," Parrish clarified that many of the recommendations would be resolved once the rules, which were currently moving through the legislative rule process, had passed. Representative Henbest asked why the board indicated it did not intend to modify its liability release statement. As there was no board representation present, Parrish responded that the board had indicated it wouldn't change the current language because it had not been challenged in court.

Representative Field moved to request another progress report of the Board of Medicine evaluation in six months. Senator Marley seconded the motion, and it passed unanimously by voice vote.

The committee took a short dinner break. Senator Marley and Representative Boe were excused from the meeting.

A Review of Selected Wildlife Programs at the Department of Fish and Game

Mr. Paul Headlee, Performance Evaluator, indicated that the last outstanding recommendation, related to the Wildlife Disease Research Oversight Committee, was "in process" until an MOU was signed. Co-chair Dunkin provided Mr. Al VanVooren, Acting Director, Department of Fish and Game, an opportunity to speak. He indicated that while he had not prepared comments, he was available to answer any questions.

Representative Henbest said she felt there was no reason to have another update, as long as Fish and Game sent a signed copy of the MOU to OPE when completed. OPE should alert JLOC if it did not receive the MOU.

By unanimous consent, the committee closed follow-up on the evaluation.

IDFG: Opportunities Exist to Improve Lands Program and Strengthen Public Participation Efforts

Mr. Jim Henderson, Senior Performance Evaluator, summarized the department's efforts to resolve the five outstanding recommendations. In discussion, Senator Hawkins said the Senate Resources and Environment Committee had introduced legislation to increase county commissioners' ability to purchase land. He said the bill seemed to indicate the department was ignoring county officials. Co-chair Dunklin called on Mr. VanVooren to comment. VanVooren said the department wanted to cooperate. He was aware of the anxiety over loss of public land. The department had to balance land acquisition with the expressed concerns of local counties. In response to further questions, VanVooren indicated that the department "slowed down" on acquisition efforts if it met great resistance from a county; the department had a good record of acquisitions.

Committee members discussed whether to continue to monitor progress on this evaluation. They acknowledged the department had put a process in place and JLOC couldn't monitor it "forever," and they needed to rely on other committees to monitor the success of the process.

Representative Henbest moved to close follow-up on the evaluation and Representative Bell seconded the motion. In response to a request from Representative Field, **and with the concurrence of the second, Representative Henbest amended the motion to add that letters be sent to the germane committees indicating there would be no further action by JLOC, and encouraging them to continue to ask questions. The motion passed unanimously by voice vote,** with Senator Ipsen commenting he felt it would be a mistake to *not* send the letter to the germane committees.

REQUESTED STAFF UPDATES:

DOC phone contract and rates

Mr. Paul Headlee, Performance Evaluator, reported back on the status of the department's RFP for a new phone contract and phone rates. Department action had resolved all outstanding evaluation issues: the department had entered into a new three-year contract, effective December 15, 2001; call rates were fixed in the contract and consistent among all department facilities. Also, rates were substantially lower than those in the previous contract, with an estimated total savings to those who received calls at nearly \$1 million per year. In addition, the commission rate was replaced with a franchise fee of \$92,500 per month.

Representative Field commented that JLOC had taken some heat over this report because some felt the committee was getting into areas where it did not belong. Yet, so much had been accomplished as a result of the committee's efforts. Members echoed Field's comment, saying it was rare when government could cut costs *and* generate more revenue. Co-chair Dunklin asked Steve Bellomy, Department of Correction, to convey the committee's appreciation to the department.

By unanimous consent, the committee closed follow-up on the evaluation.

Department of Agriculture rules regarding domestic cervidae

Mr. Headlee summarized action related to the Department of Agriculture's domestic cervidae program since JLOC's November 2001 meeting. The Idaho Wildlife Federation was still concerned the department had not gone far enough and had requested that JLOC revisit this request, specifically focusing on the department's inspections, inventory records, and animal identification. On the other hand, both houses had rejected two of the related rules being considered. Representative Bell said a recent situation involving the fine of a domestic cervidae farmer may have prompted some of the legislation. She said she was concerned there was no department representation present.

Representative Bell moved to hold the request until the Department of Agriculture could be present to speak. Representative Field seconded the motion.

Senator Hawkins said he felt this was a very technical area and that OPE shouldn't be used for this purpose. The issues had been fully aired in committee and those concerned needed to use the process in place to resolve their concerns.

Senator Hawkins offered a substitute motion to drop the request for this evaluation from the list of topics under consideration. Senator Ipsen seconded the motion, and it passed unanimously by voice vote.

CONSIDERATION OF REQUESTED EVALUATIONS

Ms. Van Maren reviewed the status of evaluation work underway: OPE was currently working on a follow-up to state passenger vehicle management and the Idaho Child Care Program. JLOC had directed that when resources became available, the office should begin an evaluation of programming for female inmates and their children. Preliminary work on this topic had shown that an evaluation would be more like a literature review, as little data was available. Representative Field said Representative Boe had indicated that this evaluation could be tabled by JLOC for reconsideration in six months.

Representative Field moved to table the evaluation of programming for female inmates and their children for reconsideration in six months. Representative Henbest seconded the motion, and it passed unanimously by voice vote.

Higher education residency requirements

Ms. Van Maren provided background information on the request for an evaluation of higher education residency requirements. In discussion, Senator Hawkins said he thought this evaluation would be meaningful to do, but not necessarily top priority. Representative Henbest said it would be helpful to add to the scope an analysis of whether non-resident fees covered the cost of education, as this seemed to be the idea behind non-resident fees. Also, if the residency requirements were in statute, the question would be whether universities were applying the requirements uniformly.

DEQ's air permitting program

Co-chair Dunklin said a scoping paper had been prepared in response to the Speaker's request for evaluation. He had reviewed and approved it. She called on Mr. Chris Shoop, Performance Evaluator, to review the background information and potential evaluation questions.

Co-chair Dunklin called on Ms. Kate Kelly, Administrator, Air Quality Division, to respond to committee questions. Kelly said the department used boilerplate language for certain types and parts of applications, but there was variation that needed to be taken into account. In response to questions, Kelly said DEQ's Title V program was much more comparable to other states, which

were struggling with the same issues. In the area of Permits to Construct, there was less to learn from other states; the department was using a private sector approach to revamp the process. She noted there was a great deal of oversight of these areas by the EPA. Kelly reported that the department's problems in air permitting were a combination of factors, including the complexity of regulations, population increases, and the system of funding permits. She did not think it was a manpower problem. They welcomed an evaluation.

Co-chair Dunklin called on Mr. Dick Rush, Vice President of Natural Resources, Idaho Association of Commerce and Industry, to address the committee. Rush said he was in favor of a review. Many companies felt Idaho's program was too costly and time-consuming. Further, some companies that operated in Idaho and other states felt it was more expensive in Idaho. An evaluation would "help clear the air." He noted it was important to conduct this evaluation quickly, because fees were set to increase. Finally, could the evaluation look at whether DEQ could get by with less money? Also, he would like the review to go back a ways, maybe to the beginning of the program, because industry's funds have been spent on the program. Representative Henbest said that OPE should project any cost savings coming from a revision to the process for permitting. In response to committee questions about scheduling of evaluations, Van Maren said she would "slow-track" the evaluation of the Idaho Child Care Program if a time sensitive evaluation were assigned.

Representative Field asked if it would be appropriate to request a federal mandate review on whether enrollees lost Medicaid benefits when benefits were not used for 30 days. **Senator Ipsen said he could get an answer to this question and get back to members.**

Representative Field moved to conduct an evaluation of the Department of Environmental Quality's air permitting program as first priority and ensure that an evaluation of residency requirements at state institutions of higher education be conducted as resources become available. Representative Henbest seconded the motion, and it passed unanimously by voice vote.

STATUS REPORT ON EFFORTS TO CONSOLIDATE AUDIT FUNCTIONS

Representative Field said there had not been a consensus between the House and Senate on how to combine audit offices, although there was agreement it should be done. As a result, the Speaker indicated the offices would remain as they are currently and they would begin the hiring process for an OPE director after session. In discussion, Representative Henbest said: (1) she would like to see more explicit sharing of information between JLOC and financial audits. Was it possible to move forward in a coordinated fashion within the existing structure? (2) JFAC's involvement in JLOC needed to be strong. The result would be better government. Representative Field said it may be worth considering having one of the JFAC co-chairs (or designees) serve as a co-chair of JLOC—alternating each year between Senate and House. She would keep committee members updated on progress.

The meeting adjourned at 8:00 p.m.