

Minutes of the Joint Legislative Oversight Committee

March 23, 2016

Room EW42, Capitol, Boise, Idaho



Cochair Senator Cliff Bayer called the meeting to order at 7:34 a.m. Attending the meeting were Senators Steve Vick, Michelle Stennett, Troy Rohn (substitute for Cherie Buckner-Webb), Representatives John Rusche (cochair), Maxine Bell, and Elaine Smith. Also present were Rakesh Mohan, director, Margaret Campbell, administrative coordinator, and other OPE staff. Audience members included the following:

Representative Gary Collins
Robert Geddes, Director, Department of Administration
Ken Roberts, Chairman, Tax Commission
Russ Baron, Deputy Director, Department of Health and Welfare
David Fulkerson, Deputy Administrator, Division of Financial Management

Approval of minutes

Representative Rusche moved to approve the minutes of the meeting on March 11, 2016. Representative Smith seconded the motion, and it passed by voice vote.

Cochair Bayer suggested a motion to receive all three reports at the beginning of the meeting in case members needed to leave early.

Representative Rusche moved to receive three follow-up reports: *Assessing the Need for Taxpayer Advocacy, The State's Use of Legal Services, and Challenges and Approaches to Water Quality Standards*. Senator Vick seconded the motion, and it passed by voice vote.

Follow-up report release: *Assessing the Need for Taxpayer Advocacy*

Hannah Crumrine addressed the implementation of recommendations by the Tax Commission. She said the initial evaluation did not assess the need for taxpayer advocacy because the commission had lacked data. Instead, the report had recommended increasing data collection and promoting data-driven management. In follow-up review, she found the commission had implemented those recommendations. The commission was tracking limited taxpayer complaints, and in a few years of data collection, an analysis could be conducted to assess the need for taxpayer advocacy.

Representative Rusche said he wanted to hear from the commission its efforts to track complaints. The cochair called on Ken Roberts, Chairman, State Tax Commission, to address the question. Mr. Roberts said the commission was trying to identify what constituted a complaint as opposed to a complaint about taxes that were rightfully due. He was looking for tools that could track trends: laws that were unclear or outdated and instructions that were lacking.

Representative Rusche moved to close the report *Assessing the Need for Taxpayer Advocacy*. Senator Stennett seconded the motion, and it passed by voice vote.

Decision on action for report *Distribution of State General Fund Dollars to Public Health Districts*

Bryon Welch said the report had recommendations for the Legislature and the Board of Trustees. Members had postponed action on the report until they could see what activity occurred during session. Bryon said the board had met twice since the report release to consider how to implement OPE recommendations. The office had also presented the report to the Joint Finance-Appropriations Committee.

Representative Bell asked about actions the district governing boards had taken. Bryon said the governing bodies of districts were addressing recommendations for changes in the formula. Any change to the collection of fees set in Idaho Code was a recommendation for the Legislature to consider.

Representative Rusche said two issues remained outstanding: distribution of funds and ensuring the costs of programs were borne by the fees charged. He said he was particularly interested in recommendations for legislative action.

Representative Rusche moved to conduct a follow-up review on *Distribution of State General Fund Dollars to Public Health Districts* in one year. Representative Bell seconded the motion, and it passed by voice vote.

Status report: *Application of the Holiday Leave Policy*

Bryon said the holiday report offered a series of options for policymakers to consistently apply holiday leave across agencies. He said the State Controller had urged the Legislature to make changes in Idaho Code so agencies that did not have administrative rules would have the same guidance. Bryon said the Division of Human Resources did not have plans to put forth legislation. At an OPE presentation to the CEC Committee, members suggested creating an interim committee to look at total compensation, including benefits, which could also look at holiday leave.

Senator Stennett asked how many states had right-to-work laws. Bryon said there were 23 right-to-work states, and the report reviewed 22 of those states' policies. Seven states granted holiday leave according to the number of hours an employee was regularly scheduled to work, and 15 states limited holiday leave to 8 hours for full-time employees.

Representative Rusche said OPE and the Oversight Committee had done as much as they could.

Representative Rusche moved to close the report *Application of the Holiday Leave Policy*. Representative Smith seconded the motion, and it passed by voice vote.

Follow-up report release: *The State's Use of Legal Services*

Ryan Langrill said the office had made seven recommendations to help ensure legal resources were used efficiently. Three recommendations had been implemented, three were in process, and one had no change.

In response to Senator Stennett's question about staffing in offices of the seven Health and Welfare regions, Ryan said each region had some existing support staff but would receive full legal staff for child protection services if legislation passed in 2017. That staff would then be considered for child support.

Representative Rusche said the SWCAP rate of the Attorney General (\$52) as compared with the billable rate of outside counsel (\$150) was a significant difference. He asked whether agency use of the Attorney General's Office could be tracked to see whether spending decreased over time. Ryan said that in some agency programs, the demand for deputy attorneys general or outside counsel was well known and could be tracked. However, some agencies inconsistently used legal services and tracking would be more difficult to do.

Representative Rusche asked whether agency use of outside counsel was frequent enough to be an incentive to save the \$100 difference in rates. Ryan said that when conducting the evaluation, the team tried to avoid being too prescriptive because agencies had reasons other than hourly costs for using outside counsel.

Cochair Bayer called on David Fulkerson, Deputy Administrator, Division of Financial Management to address Representative Rusche's question about tracking costs to see if increased Attorney General capacity could reduce overall costs. Mr. Fulkerson said he could track hours by subobject code in the State Controller's system. However, if agencies had a big need for services, their use of the Attorney General depended on whether staffing levels and expertise were available.

Representative Rusche said the issue went back to the political aspect of the Attorney General's budget that needed to be adequate enough to take up the extra slack. Mr. Fulkerson said the point was well taken. The issue was adding capacity for perceived need versus having capacity for ongoing need.

Cochair Bayer thanked his cochair for the comments. They showed there was more to the issue than a spreadsheet, such as expertise and potential political and policy conflicts that needed to be considered. The state could reach a crescendo in the next few years about funding in the Attorney General's Office. He said the report had reached a point where the office had done all it could, but the committee could still request updates from the Attorney General.

Representative Rusche moved to close the report *The State's Use of Legal Services* and requested that the Division of Financial Management continue to track internal and external legal costs and look for opportunities to do the work cheaper. Senator Vick seconded the motion, and it passed by voice vote.

Follow-up report release: *Challenges and Approaches to Meeting Water Quality Standards*

Lance McCleve said the Department of Environmental Quality had been responsive to implementing the recommendation on use attainability analysis (UAA). The department had introduced rule and received approval to move language from Idaho Code and the Clean Water Act into rule, which allowed the department to move forward with completion of UAA guidance.

Representative Rusche asked if the evaluation had looked at aging wastewater treatment facilities, which might not be up to new standards. Lance said he had not looked at adequacy, but he had talked to municipalities with aging facilities and how they could reduce upgrade costs using water quality trading.

Representative Bell left the meeting to attend JFAC.

Senator Stennett said she appreciated all the follow-ups. She specifically acknowledged the work on water, which was an especially complex topic for the office to navigate and evaluate.

Senator Stennett moved to close the report *Challenges and Approaches to Meeting Water Quality Standards*. Representative Rusche seconded the motion, and it passed by voice vote.

Committee business

Cochair Bayer thanked members and indicated that the committee had a productive session. He thanked the director and staff, not only for their subject-matter expertise, but also for their efforts to coordinate meetings. The next meeting would probably occur in December.

Representative Rusche echoed the cochair's thoughts on work, activities, and engagement of the staff and the committee. He said it was important to take information from the evaluations and do something to improve programs and policies.

Rakesh thanked the committee. He said it had been a great year—agencies were paying attention to recommendations, and the Legislature was considering and initiating recommendations. He said he had accepted an award on Saturday from the American Society for Public Administration for outstanding professional contributions in the field of intergovernmental management. The award reflected the work of the Oversight Committee, the staff, and the agencies that implemented recommendations.

Cochair Bayer said he was glad to see the recognition. That kind of effectiveness did not happen without objectivity.

The meeting adjourned at 8:24 am.