

Minutes of the Joint Legislative Oversight Committee*
June 21, 1999
Basement Conference Room, J.R. Williams Building
Boise, Idaho

Co-chair Representative Debbie Field called the meeting to order at 9:00 a.m. Committee members Senators Marguerite McLaughlin, Atwell Parry, Grant Ipsen, and Lin Whitworth, and Representatives Robert Geddes, June Judd, and Larry Watson were in attendance. Staff members Nancy Van Maren and Margaret Campbell also were present, as were staff Eric Milstead, Jim Henderson, and Bev Nicholson.

Co-chair Field opened the meeting with a review of the minutes. **Senator Parry moved to approve the minutes of the February 4, 1999 meeting and Representative Geddes seconded the motion. The motion passed unanimously by voice vote.**

REPORT RELEASE: *THE STATE BOARD OF PHARMACY'S REGULATION OF PRESCRIPTION CONTROLLED SUBSTANCES*

Mr. Eric Milstead, Performance Evaluator, reviewed the findings and recommendations of the report and responded to questions from the committee.

Committee members discussed how the state could better control doctor shopping by controlled substance abusers and whether the electronic tracking system would interface with other states to prevent interstate doctor shopping. The Board could also inquire into PharmAlert, which operates in Colorado and Wyoming at no cost to the states, as it may have inter-state capabilities.

Committee members discussed the need for an interagency taskforce and indicated that the Board of Pharmacy and Department of Law Enforcement needed to work more effectively together in the investigation and enforcement of private citizen substance abuse complaints.

Co-chair Field called upon Mr. Frank Casabonne, Chair, Board of Pharmacy, to respond to the report. Mr. Casabonne said the board appreciated the report and agreed with the recommendations. He said the board wholeheartedly agreed with the need for an interagency task force to provide direction in handling private citizen complaints. Also, improvement was needed in complaint file documentation, to use as a basis to a more formal process, to include improved oversight. Co-chair Field also called upon former Representative Kitty Gurnsey, board member. She pointed out that report findings showed seven percent of the complaints received were about pharmacists; should the Board of Pharmacy have oversight over the other 93 percent? She suggested that JLOC could help the Board by passing a bill to schedule Soma, the drug most frequently abused by pharmacists.

In response to committee questions, Mr. Gary Domeny, investigator, Board of Pharmacy, said the tracking system would be effective in following abuse. However, information generated from reports would be sensitive and need safeguarding. Does the Legislature want the Board of Pharmacy responsible for that much power or should the responsibility be spread among other agencies? Co-chair Field asked the board if they would be willing to work with the Senate and House Health and Welfare Committee chairs to develop legislation to correct problems raised in the

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

report. In response, Mr. Casabonne said the board would be happy to work with the committees to address issues raised in the report. Mr. Markuson, Executive Director, added that the board would require additional resources if it were to adequately handle complaints about private citizens.

Representative Geddes moved to accept the report and refer it and the management letter from the OPE to the Senate and House Health and Welfare Committees for further review. Senator Parry seconded the motion and it passed unanimously by voice vote.

PROGRESS REPORTS ON PREVIOUSLY REQUESTED COMMITTEE ACTION

Operations and Effectiveness of the Idaho Electrical Bureau (background paper)

Ms. Van Maren reviewed a response requested from the Division of Building Safety on two requests made regarding the Electrical Bureau. She said the only outstanding issue was an outside review of management and morale concerns. The administrator indicated he was handling the issue internally for now.

Senator Whitworth moved to request a progress report on the outstanding issue from the Electrical Bureau in six months or at the next meeting. Senator Ipsen seconded the motion, saying 6 months appeared to be consistent with the timeline the new administrator had expressed. The motion passed unanimously by voice vote.

Management of State Agency Passenger Vehicles

Mr. Eric Milstead, Performance Evaluator, reviewed report findings and recommendations. Co-chair Field called upon Mr. Brad Foltman, Division of Financial Management, to respond to earlier committee requests. Mr. Foltman said the report had been helpful. Governor Batt had sent a letter to agencies requesting them to review and update passenger vehicle information for accuracy. Governor Kempthorne's intent was to keep responsibility for passenger vehicles at the agency level. In response to questions, Mr. Foltman said the Division of Financial Management monitors the funding of agencies, but not the number of vehicles purchased with carryover funds. Senator Parry said JFAC might look at requiring agencies to get approval for these purchases; JFAC needed to be aware of carryover expenditures, especially given the funds involved in vehicles.

Senator Parry moved that OPE follow-up and review information on recommendations #2 and #3 of the *Management of State Agency Passenger Vehicles* [that agencies develop effective data systems and they conduct ongoing reviews to assess fleet operations] and report to JLOC in one year, using JFAC, as possible, as a means to gather data. The motion was amended to request that the Division of Financial Management, together with the Legislative Services Office, Budget and Policy Analysis, develop a statewide policy [recommendation #1] and bring it back to JLOC for review in one year. Representative Watson seconded the motion.

In discussion on the motion, Senator Parry said he thought it would be possible to have a general policy without micromanaging. Without a statewide policy, the state couldn't get a handle on all the cars – and there was a lot of money involved. Mr. Foltman said he thought it would be possible for DFM and Budget and Policy to develop a policy that would meet JLOC's concerns.

The motion passed unanimously by voice vote.

Senator Ipsen was excused from the meeting at this time.

UPDATE ON IMPLEMENTATION OF REPORT RECOMMENDATIONS

Alternatives to Incarceration

Ms. Van Maren reviewed a progress report from the Department of Correction. Co-chair Field called upon Mr. James Spalding, DOC Director, to address the committee. Mr. Spalding said the board considered seriously the recommendations and followed through on issues they were instructed to respond to. The board had not agreed with the recommendations related to placing some inmates on electronic monitoring, believing this went beyond their authority. Mr. Spalding responded to a number of other questions from the committee.

Ms. Van Maren said the committee would receive follow up information on the three specific requests the committee made to the Department of Correction at the next JLOC meeting.

Management Review of the Idaho Commission for the Blind and Visually Impaired

Ms. Van Maren reviewed a progress report from the Idaho Commission for the Blind and Visually Impaired. She alerted the committee that by committee rule, the two remaining requests for evaluation related to ICBVI that were put on hold last October would expire from the current list of topics in July. Co-chair Field called upon Dr. Michael Graham, Acting Administrator, ICBVI, and Mr. Kelly Buckland, Executive Director, Idaho State Independent Living Council (who originally requested the evaluation that had been completed), who each responded to committee questions.

Senator Whitworth moved to hear another progress report in six months from the Idaho Commission for the Blind and Visually Impaired. Representative Watson seconded the motion and the motion was passed unanimously by voice vote.

Medicaid Reimbursement for Outpatient Occupational and Speech Therapy

Ms. Van Maren reviewed a progress report from the Department of Health and Welfare. The department was promulgating rules to include an “on site” definition in the Administration Rules. Co-chair Field called upon Ms. Jean Christensen, Division of Medicaid, to address the committee. Ms. Christensen said the department will place the rule in the September Administrative Bulletin for public comment and process it for legislative review next session.

Co-chair Field requested that the committee receive a report after the next legislative session on the status of the recommendation made in *Medicaid Reimbursement for Outpatient Occupational and Speech Therapy*.

Public School Use of Tobacco Tax Funds

Ms. Van Maren reviewed a progress report from the State Department of Education and said the department had made significant progress on all recommendations except one, streamlining application and reporting requirements. However, the department reported that school districts had become more familiar with the form so that reporting had improved as a result.

Senator Parry moved to discontinue follow-up on *Public School Use of Tobacco Tax Funds*. He said implementation of the first recommendation would be left to the Legislature to decide. Representative Geddes seconded the motion and the motion passed unanimously by voice vote.

The Bishop's House Historic Site

Ms. Van Maren reviewed a progress report from the Idaho State Historical Society, which reported that a revised lease had been signed by all parties in June 1999. The site plan was being modified to reflect changes in administration of the overall property on which the Bishop's House sits, so was not yet finalized.

Senator Parry moved to discontinue follow-up on *The Bishop's House Historic Site*. Representative Judd seconded the motion and the motion passed unanimously by voice vote.

Senator Parry added that he wished to compliment those involved for all that had been accomplished as a result of this evaluation.

(The committee broke for lunch.)

License Plate Design Royalties Paid to the Idaho Heritage Trust

Ms. Van Maren reviewed progress on the recommendation made, reporting that there was not yet an approved written agreement governing the state's use of the licensed design. A draft license agreement had been developed, but the Idaho Heritage Trust and the Office of the Attorney General could not agree on modifications proposed by the Trust. It was the judgment of the deputy attorneys general involved that several of the proposed changes were contrary to expressed legislative intent, but negotiations with the Trust since the report was released two years ago had not resolved the matter. As a result, discussions on a written agreement could not go forward. In the most recent meeting with the Trust's representative, he had indicated his interest in floating legislation to specifically incorporate some of the terms being sought in the written agreement.

In discussion, several committee members voiced support for how the Trust funds were used, but expressed concern that despite the good faith efforts of the Office of the Attorney General, a written agreement had not been achieved.

Senator Parry moved to request that bill drafters in the Legislative Services Office prepare an RS to cancel all Idaho Code sections that govern the transfer of license plate funds to the Idaho Heritage Trust and a draft of the RS be provided at the next JLOC meeting for review. The co-chairs should send a letter to the Idaho Heritage Trust notifying them of the action and inviting them to attend the next meeting. Representative Watson seconded the motion and the motion passed by majority voice vote. Senator Whitworth was recorded as voting no.

INFORMATIONAL TOUR OF OPE OPERATIONS

Ms. Van Maren reviewed the timeline and process of researching and releasing an evaluation, using the evaluation of the Board of Pharmacy as an example. She emphasized the depth of the research

and amount of time required to develop data when the available data is inadequate to come to conclusions about the questions posed.

Due to time constraints, the remainder of this section of the agenda was tabled until the next JLOC meeting.

TOPIC SELECTION

The Domestic Insurer Examination Process at the Department of Insurance (background paper)

Ms. Rosemary Curtin, contractor with the OPE, summarized the information and potential evaluation issues covered in the background paper and responded to questions from the committee. Co-chair Field called upon Ms. Mary Hartung, Director, Department of Insurance, to address the committee. Ms. Hartung reviewed each proposed evaluation issue of the background paper and outlined how the department met the requirement. She emphasized that the costs of an exam are offset by reductions in premium taxes. When asked why companies may complain about the cost, Ms. Hartung said that some company records may not be in order and, consequently, an exam could then take longer to conduct.

(The committee took a break.)

Co-chair Field announced that, according to committee rule, if the committee wished to hear from anyone outside of the Department of Insurance and OPE staff on this matter, a majority vote on a motion to do so was needed.

Representative Geddes moved to hear testimony from Mr. Bob Locke, Gem State Insurance Company, on the domestic insurer examination process at the Department of Insurance. Senator Whitworth seconded the motion and the motion passed unanimously by voice vote.

Co-chair Field called upon Mr. Bob Locke, Gem Insurance Company, to address the committee. Mr. Locke said his company has no objection to the examination process. However, he was concerned about the increases in examination cost and time. He pointed out that while the costs are offset by reductions in premium tax payments, premium taxes go to the general fund. As a result, increases in examination costs reduce state revenues. Mr. Locke responded to committee questions concerning his experience with Department of Insurance examinations.

Co-chair Field called upon Ms. Mary Hartung and Mr. Bob Murphy, Department of Insurance, to respond to Mr. Locke's testimony. Ms. Hartung said that a hearing process was available to companies through the department, but that Gem State had not taken advantage of it. Responding to committee questions, Mr. Murphy said that the examination cost Mr. Locke had cited actually included additional costs as well.

Co-chair Field thanked the department and Mr. Locke for responding to questions. She suggested that Mr. Locke take advantage of the hearing process available through the department to resolve his concerns.

The committee turned to the list of topics requested for evaluation. Members reviewed the Guidelines for Topic Selection, then reviewed the availability of staff resources for the next

evaluations and how many requests could be pursued at this point. The committee then discussed the results of the legislative survey.

In discussion about requests, Representative Geddes said he had recently heard that there was an undue amount of personnel turnover and employee lawsuits in the Department of Correction. Committee members asked if OPE could determine the number of lawsuits filed by employees and whether OPE had access to this information. Ms. Van Maren referred to the powers expressed in the enabling statute, but said she should consult legal counsel to know for certain. In further discussion, members said they hoped to understand if turnover and morale were the same throughout the DOC and if it varied by employee's length of service. If turnover was actually higher than should be expected, they wanted to understand where the problems were.

Representative Geddes moved to conduct an evaluation of the Department of Correction personnel turnover and morale, including a look at employee and former employee lawsuits, leaving it to OPE's discretion to determine how to further scope the evaluation. He said that necessary funds should be encumbered from the FY1999 budget to hire a management consultant. Senator Whitworth seconded the motion and the motion passed unanimously by voice vote.

Co-chair Field called upon Representative Doug Jones to address the committee regarding his request for an evaluation of the delivery of community college services. He said his interest centered on knowing how well and cost-effectively we provide community college services and responded to additional questions from the committee.

Members turned to the request for an evaluation of the Division of Public Works. They pointed out that it had received the greatest amount of interest in the legislative survey. Members conveyed complaints they had received from state employees on the costs and quality of work done by the division. They were also concerned about an allegation that division employees had conveyed an attitude that agencies should not be concerned about costs because the projects weren't funded out of the agencies' budgets.

Representative Watson moved to conduct an evaluation of the administration of public works projects. Senator Parry seconded the motion and the motion passed unanimously by voice vote.

In further discussion, committee members said this evaluation should begin as resources became available, which Ms. Van Maren reported was likely to be mid-September.

Senator McLaughlin moved that an evaluation of the delivery of community college services in Idaho be undertaken at a later date, when resources became available. Senator Whitworth seconded the motion and the motion passed unanimously by voice vote.

The committee reviewed remaining requests for evaluation, making several related motions.

Senator Parry moved to drop from further consideration the topic of examination rates of the Department of Insurance and send a letter to Mr. Bob Locke suggesting he request participation in the hearing process from the Department of Insurance. Senator McLaughlin seconded the motion and the motion passed unanimously by voice vote.

The committee also discussed a request regarding private landowner assessments for forest fire protection. Concerns had been raised about the accuracy of assessments in at least one district.

Representative Geddes suggested the co-chairs send Legislative Audits a letter recommending the next audit of the Department of Lands look at the fee structure for private landowner assessments for forest fire protection. His suggestion was adopted by unanimous consent.

Senator McLaughlin moved that 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, **Senator Parry moved to increase the salary of the director of the Office of Performance Evaluations by 3% effective the first pay period of FY2000. Senator Whitworth seconded the motion and the motion passed unanimously by voice vote.**

In discussion on the motion, committee members commended the director and staff of OPE for their hard work, professionalism, and accomplishments. Concern was expressed about pending needs for additional funds in Medicaid and Corrections.

The next meeting of JLOC was tentatively scheduled for August 20, 1999.

Meeting adjourned at 4:30 p.m.