

**MINUTES OF THE
SUBCOMMITTEE ON OVERSIGHT**

Wednesday, May 1, 2002 - 11:00 a.m. - Room 305 State Capitol

Members Present:

Speaker Al Mansell, Senate Chair
Speaker Martin R. Stephens, House Chair
Sen. Ron Allen
Rep. Patrice M. Arent
Rep. Ralph Becker

Members Absent:

Sen. Mike Dmitrich
Sen. L. Steven Poulton
Rep. Kevin S. Garn

Staff Present:

Ms. M. Gay Taylor, General Counsel
Ms. Beverlee LeCheminant, Secretary

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us/imaging/history.asp> or contact the Office of Legislative Research and General Counsel.

1. **Call to Order** - President Mansell called the meeting to order at 11:20 a.m.
2. **Approval of the November 21, 2001 Minutes**

MOTION: Rep. Becker moved to approve the minutes of the November 21, 2001 meeting. The motion passed unanimously.

3. **Annual Budget Review of:**

a. Office of the Legislative Fiscal Analyst - Mr. John Massey said that his office is moving forward and he feels positive about the things that are being done. He indicated that his office went through the last budget cycle with one less fiscal analyst, and four analysts were assigned to new budget areas where they could be more effective. Mr. Massey distributed a list of major activities his office has been involved in since the last Subcommittee on Oversight meeting in November of 2001.

Mr. Massey noted that his office plans to improve on ensuring that all policies and procedures are clear and understood by its staff and they will be holding staff meetings which focus on particular parts of the policies and procedures. The Office has scheduled training sessions during the interim wherein each analyst will spend time with the staff explaining their particular area of assignment so that each analyst has a broad understanding of what is going on in other areas. The Office will also continue to work on improving the level of communication and assistance to both the minority and majority parties.

Mr. Massey said his office appreciates the Legislature's support and while this year's session has been difficult, he feels that it has been an experience that the analysts can learn from in making the budget process better in the future.

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Rep. Arent indicated that during the last session the Democrats had some difficulty in trying to get timely responses on fiscal matters and the fiscal analyst's help in putting together the Democrat's budget, which resulted in some delays for committees as a whole. She said that there were times when legislators felt a little embarrassed because they made motions that were not as well thought out as they could have been because they were based on bad information from his office.

Mr. Massey said that his office has dealt with this specific issue and that their office policy is for the analysts to do what the minority party requests them to do, but if the request has some problems associated with it, the analysts want to make sure that the request is properly responded to with the right answers. Mr. Massey told the committee that his office has worked to resolve this issue.

Rep. Arent also commented about the basic staffing issues of having analysts available when they are needed. Mr. Massey reported that the office is assigning additional staff to assist the minority party.

Sen. Allen stated that the Legislature has put extra work on the fiscal analyst's office, but he indicated that the people he worked with from the office were very objective and he never had any problems with political issues coming into play. He appreciated their help.

Rep. Becker praised the office staff for their professional work. He stated that, as a future note for the office to be aware of, the minority party had some problems in trying to get timely responses to requests for information so they would be prepared for the Executive Appropriation Committee meetings or developing their budget alternatives. This was a real challenge for the minority party and is something that may need to be addressed further as a staffing issue if it becomes a consistent problem.

Mr. Massey said he thinks that part of the problem regarding this issue was the uniqueness of the session this year, along with being one staff member short. He stated that his office has recognized some things it can do regarding this issue and will work to address those problems.

Speaker Stephens commented that this was probably the most difficult budget year the Legislature has had in 15 years and he feels that his office performed in an outstanding way. He noted that the Legislature appreciates what his office did for them.

Speaker Stephens asked Mr. Massey what has taken place regarding a fallout with one of his analysts and the president of one of the institutions with regard to his staff not attending a Board of Regent's meeting in St. George. Mr. Massey indicated that his decision not to have four of his analysts attend the Board of Regent's meeting in St. George was based on the agendas of the meetings. He has talked to the fiscal analysts involved and the president of the institution and he feels that the issue is resolved.

President Mansell asked Mr. Massey what policy he has put forth with regard to analysts giving out an opinion to a person who is not a legislator. Mr. Massey said the office policy is to respond to legislative requests only and, if there is a request from the public, fiscal analysts are to inform the public that they will have to talk to their legislator and the legislator will contact his office. He stated that one of the things he will be doing this interim is to refocus his staff on the office's existing policies to make sure they are clear to the staff.

President Mansell asked Mr. Massey if there is a process in place for him or one of the senior members of his staff to review those opinions that go out to a legislator. Mr. Massey said that office policy is that anything that is going out to the Legislature is reviewed by the management Team within his office.

Rep. Becker said there are times when there is a constitutional note on a bill and it is clear to the Legislature that if the bill is moved forward there will be litigation. He asked Mr. Massey what his office policy is regarding this. Mr. Massey said that both Legislative Research and his office have agreed that Legislative Research will not do fiscal notes and his office will not offer legal opinions. However, when there is a constitutional note and it raises enough issues, or if they get responses back from agencies saying there is going to be a cost to this, the analyst will contact the attorney who drafted the bill and clarify if that is the case. They have, on a number of occasions, included in their fiscal note a comment that if this law is challenged in court, there will be additional costs.

President Mansell suggested that the Legislative Fiscal Analyst, as a matter of practice, indicate in the fiscal notes that if there are constitutional notes, there could be additional costs if litigation results.

b. Office of Legislative Research and General Counsel

Mr. Michael Christensen said he has been with the Office of Legislative Research and General Counsel about 16 months now and is glad he made the decision to work there. He also expressed appreciation to John Massey and Wayne Welsh for the excellent cooperation and support he has received.

Mr. Christensen said that since he was hired his goal has been to try and do more in the way of providing the best information his office can on the issues the Legislature sees as important. He noted that his office produced three research reports last year: the Tax Primer, the Energy Policy Report, and the Redistricting Report. His office produced eight issues of the Interim Highlights newsletter, and, by the end of the year, both the Office of the Fiscal Analyst and the Office of the Legislative Auditor were working with Legislative Research on the newsletter to make it a combined report from the three legislative staff offices.

Mr. Christensen noted that his office sent a survey to all legislators and out of 104 surveys, received 52 back. This survey gives the office a good perspective of how the Legislature feels about the services the office provides. Mr. Christensen distributed a copy of the results of this survey. The legislators responded to 22 categories and in 13 of the 22 categories over half of the scores were a five, which is the highest score possible. In 51 of the 52 surveys, the office received a score of 4 or 5 in the overall category. Mr. Christensen stated that there are some areas that the office needs to focus on such as the timeliness of bill drafting. He said the office is looking at that area now to see where they can improve and be more productive.

Mr. Christensen told the committee that the office will continue to move forward in: 1) continuing to work on the survey and looking at other areas where there needs to be improvement; 2) finding ways to be a better provider of information for the Legislature; 3) providing more and briefer reports on more issues, such as a brief on the gas tax; 4) preparing a brief on "State Ranking"; 5) since this is an election year, putting together a report containing graphs and tables of Utah facts; and 6) looking at ways of delivering the new legislator orientation differently to make it more exciting and interactive with the new legislators.

Ms. Gay Taylor said the office has three attorneys leaving this year. Cheryl Felt has left for family obligations and Thad LeVar, who has been a law clerk, has been hired in her place. Paul Hess has left the office to return to a position in his old law firm and Cathy Dupont will be covering his area while the office is interviewing for his position. Keith Woodwell will be leaving the office at the end of June to work for the federal government and the office is also interviewing for his position. The office hopes to hire two new attorneys in the next few weeks.

President Mansell asked if any of the attorneys who are leaving or who have left are leaving because of wages. Ms. Taylor said that Paul Hess left because of wages, but the rest did not.

Rep. Becker asked if his office is going to do some research on how other states fund road construction and transportation systems in general. Mr. Christensen said the office will do some research in this area.

Pres. Mansell thanked Mr. Christensen for the job he is doing and indicated that he hears almost 100% good things about his office. He suggested that his office might want to send out a notice to the legislators in the fall reminding them to start earlier in getting their legislation filed so it is drafted in a timely manner.

c. Office of the Legislative Auditor General

Mr. Wayne Welsh said that he appreciates the support legislative leadership has given his office and is grateful for his reappointment, which gives him another six years to work with the Legislature and to provide objective information that is helpful to the Legislature in making policy decisions. He stated that he feels his office has continued to be responsive to legislative requests. The office has dealt with some significant, controversial, and difficult areas and he would hope that they have provided information to the

Legislature that is of a nature that it can be used in determining the nature of the problems that exist in those areas and what can be done to solve them.

Mr. Welsh told the committee that the auditors have looked at some very significant areas, such as the medical school admissions process, the Division for Services for People with Disabilities, unregistered vehicles, and the veterans nursing home. All of these areas have been helpful in improving the agencies they have audited and providing legislators some options in dealing with the policy questions involved. He indicated that the office gauges its success somewhat by the amount of cost saving and revenue increases it identifies and the implementation rate of its recommendations and he feels good about those two indicators. The cost savings were up to about \$142 million this year, which is a 5 to 1 cost benefit ratio for the costs of the office, and about 86% of the office recommendations have been implemented.

Mr. Welsh noted that his office received some national recognition last year. The office's staff sections were awarded the excellence award at NCSL, and that reflects on the kind of quality work the office does and the recognition that is given, not only here in Utah, but outside the state as well. The office hopes to continue to improve what it does now in trying to be more timely in its audit completions, to work better with requesters to identify their interests and concerns, and to work with its staff to keep them involved in improving their processes as they have in the past.

Sen. Allen said he has received phone calls over the last couple of years from people who are concerned about efficiencies in city or town governments. He asked Mr. Welsh if his office has ever looked at that issue. Mr. Welsh said his office has done some work with counties and cities, but the auditors have not gone in and done a comprehensive audit of the city or county. The office usually takes a state program and, if it is carried out by a local government, then the auditors will audit those local governments and how they carry out the program. He stated that there have been a couple of instances where his office has been asked to look at issues at a local level and their committee has denied those requests because they felt like they didn't want to get involved in purely local issues.

Rep. Becker asked if the office has a policy regarding a request for an audit where litigation is involved.

Mr. Welsh said it has been the office's practice to avoid those situations and to not do the work of the judicial branch in the court process. Ms. Taylor said the policy has been to let the judiciary take the lead, let the discovery happen as it will between the parties, and then, if the audit still makes sense after that point in time, to go in and look at it, but not do an audit in tandem with the litigation.

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President Mansell complimented Mr. Welsh on the work his office does and indicated that the audits that are being done are helping state government. He also thanked Mr. Welsh for his service.

Rep. Arent reminded the three staff directors that the Subcommittee would like detailed budget information on each of the offices in advance of the November meeting.

4. Adjournment

MOTION: Rep. Becker moved to adjourn at 12:10 p.m.. The motion passed unanimously.