

Legislative Oversight Committee Meeting Minutes, June 21, 2021

Call to order: A meeting of the Legislative Oversight Committee convened on June 21, 2021 at the Oklahoma State Capitol, Senate Room 535, Oklahoma City, OK. Written notice was provided four days in advance, in compliance with Open Meeting Laws. The meeting was called to order at 11:10 a.m., upon which time quorum was established in accordance with Joint Rule 10.5.

Members Present: Chairman Kevin Wallace, Rep. Jeff Boatman, Rep. Kyle Hilbert, Rep. Cyndi Munson
Chairman Roger Thompson, Sen. Frank Simpson, Sen. Julia Kirt, Sen. Dewayne Pemberton

Others: From LOFT: Executive Director Mike Jackson, staff members Regina Birchum, Shannon Rios, Frank Magness, Brad Ward, Tom Bogdanowicz, and Zach Sumner. From the Tobacco Settlement Endowment Trust: Executive Director Julie Bisbee, Thomas Larson, and board members Bruce Benjamin, Michelle Stephens, and Marshal Snipes. Legislative staff: House fiscal director Mark Tygret and Senate fiscal director Anthony Sammons.

Approval of Minutes: Chairman Wallace asked Director Jackson to present the minutes from the last committee meeting. Director Jackson provided a brief overview of the minutes for the Committee. Seeing no questions, Rep. Hilbert made a motion to accept the minutes as presented. The motion was seconded by Rep. Boatman. The motion was adopted unanimously in accordance with Joint Rule 10.6.

LOFT Presentation of Draft Report: Tobacco Settlement Endowment Trust

Chairman Thompson recognized Director Mike Jackson for the presentation of the Priority Evaluation of the Tobacco Settlement Endowment Trust. Director Jackson provided an overview of the report, thanked TSET and the Oklahoma Health Department for their cooperation, and acknowledged the agency representatives in the room. Director Jackson requested the chairs recognize Dr. Shannon Rios to present the report's first finding.

At the conclusion of the first finding of the report, Chairman Wallace recognized TSET to provide comments or a response. Director Bisbee introduced staff from TSET.

Chairman Wallace opened the floor to committee members for questions. Chairman Thompson Recognized Sen. Simpson for a question about whether cultural issues were a factor in the regional concentrations of smoking prevalence. TSET discussed factors affecting smoking prevalence. Senator Simpson inquired about the increase in use of e-cigarettes by youth, and any related research about the health impact of this variant. There was additional discussion about the lack of data regarding e-cigarette use and how it is acquired by minors, as well as how TSET uses national standards.

Chairman Wallace asked about available survey data and was informed that information would be provided by TSET after the meeting. There was additional discussion about Oklahoma's spending levels and where TSET prioritizes its spending.

Chairman Thompson asked about the benefits of funding community grants for things such as walking trails. TSET discussed the benefit of the program as creating environments that support healthy choices.

Sen. Thompson asked if TSET follows up with cities receiving grants to see if the funding has made a difference. There was discussion about the requirements for the healthy community grants.

Chairman Wallace asked how TSET determines when a program has run its course. TSET responded that all programs are externally evaluated. TSET discussed how the TSET Board reviews grants.

In response to a question from Rep. Munson, there was discussion about how other states stamp tobacco products. Rep. Hilbert asked how smoking of marijuana fits into the issue of smoking prevalence. TSET responded that to their organization, smoke is smoke, regardless of product. There was discussion about the scope of the evaluation being limited to tobacco related products.

Rep. Hilbert asked TSET to explain the return on investment for spending on advertising. Director Bisbee explained the agency's approach to measuring effectiveness of health campaigns through awareness.

Director Jackson asked the Chairs to recognize Mr. Zach Sumner to discuss the report's second finding. Mr. Sumner reviewed key aspects of Finding 2 and turned it back over to Director Jackson, who offered to take questions from the committee.

Sen. Kirt directed questions to TSET regarding the agency's long-term impact on public health. During discussion about long-term policy sought by TSET, the committee was informed the agency had recently added an epidemiologist to its staff. Sen. Kirt's questions prompted a discussion on examining Oklahoma's taxation policies.

Director Jackson asked the chairs to recognize Deputy Director Regina Birchum to discuss Finding 3. Deputy Director Birchum presented an overview of the report's third finding. Director Jackson yielded to the Chairs for questions.

There was discussion about TSET's helpline, with questions about the cost per cessation packet and average savings for those who quit. Additional questions were asked about the disparate spending on Oklahoma's helpline compared to other states. Director Jackson provided the example of Oklahoma serving just 10% more callers than Texas, but spending 1,500 percent more per caller.

Rep. Hilbert relayed an example of someone he spoke with who utilized TSET's resources, but that it took a couple of months to get help and an additional nine days to receive cessation materials. There was a discussion about how materials are provided to callers to the helpline and the requirements that are followed to make sure someone is committed to trying to quit use. There was additional conversation about the costs per individual, how to perhaps be more effective with spending.

Sen. Simpson asked whether TSET collaborated with diabetes prevention groups, as research shows smokers are at greater risk for developing type 2 diabetes. There was discussion about available partnerships and grants for those needing assistance. Rep. Munson asked about mental health as a factor in smoking prevalence and related costs. TSET explained their intake process for callers.

Director Jackson asked the chairs to recognize Mr. Frank Magness to discuss Finding 4. After Mr. Magness' overview of the last finding, Director Jackson offered to take questions from the committee.

Sen. Simpson asked what factors are computed into the stress test referenced in the report. Mr. Magness discussed details regarding this data point. Director Jackson then addressed questions from various committee members regarding tax rates for cigarettes and estimates on the tax level needed to

achieve a smoking rate of less than 10 percent. There was additional discussion about taxation of e-cigarette products.

At 12:34, the Chairmen announced the committee would stand in recess until 1:30 p.m.

The committee was called back to order at 1:41 pm.

Chairman Wallace recognized Director Jackson to discuss the report's recommendations for the agency as well as policy considerations for the Legislature. Director Jackson provided a brief overview of the recommendations and policy considerations and turned it back over to the Chairmen for any questions.

Rep. Hilbert asked for confirmation that Oklahoma is one of two states that doesn't require licensure for the sale of e-cigarettes. Rep. Hilbert followed up with an inquiry about the results of other states that have required licensure. Director Jackson explained that there wasn't a lot of data available yet and noted that Texas just enacted a licensure law. He said if the Legislature chose to do that, it would allow Oklahoma to track the data and use it for developing health policy.

Chairman Thompson asked TSET how much collaboration takes place with Oklahoma's health agencies for spending and outcomes. Discussion was had on what collaborations were had with different agencies. Chairman Thompson stated he would like to see more data-driven policies. Director Bisbee stated that the Constitution sets the board of directors, who determine spending, but that they welcome the opportunity to discuss collaboration.

Chairman Wallace asked for clarification about the board being constitutional, as well as whether the agency is statutorily created. There was discussion about which areas of TSET's operations are constitutional and what is statutory.

Chairman Wallace asked about an independent, third-party legal opinion obtained by LOFT for the purpose of clarifying legislative authority regarding TSET. Director Jackson read excerpts from the legal opinion.

Chairman Wallace asked about the appropriateness of using TSET funds for Medicaid expansion. Director Jackson stated the Legislature could direct uses of the funds so long as it did not direct the board. He yielded to Deputy Director Birchum to provide an example of the type of direction the Legislature could provide based on constitutional constraints. There was discussion about the original intent of the Master Settlement Agreement regarding offsetting health costs.

Chairman Wallace asked LOFT and TSET if they would like to make any closing remarks.

Director Jackson thanked the Board of Directors, Board of Investors, Director Bisbee and Thomas Larson for their cooperation.

Director Bisbee thank the Committee and said she appreciated their work to create a healthier state. She then gave closing remarks about the agency's mission and work.

LOFT Presentation of Draft Report: County Improvements for Roads and Bridges

Oklahoma Department of Transportation Attendees: Sec. Gatz, Dawn Sullivan, Brian Taylor and Montie Smith.

Sec. Gatz thanked LOFT and introduced his team. Chairman Wallace then recognized Director Jackson to introduce the report on CIRB. After providing an overview of the report, Director Jackson asked the chairs to recognize Mr. Bradley Ward to discuss the report's first finding.

Director Jackson was recognized to take questions from the committee about Finding 1.

Rep. Hilbert stated his concern and disappointment with the fact that 69 bridges built within the past 20 years are already structurally deficient. Secretary Gatz said the poor ratings were not due to poor design but attributable to lack of maintenance. Discussion was had about the condition of the bridges, the occurrence of erosion around them, and required maintenance activity. The conversation continued to include education of county commissioners regarding maintenance. LOFT discussed what other states are doing to help local county governments with using resources available.

Chairman Thompson asked for clarification about the slowest progress of counties in improving bridges. There was discussion about recently enacted legislation focusing on counties with the highest number of bridges and that road miles will be looked at. Questions from Chairman Wallace prompted a discussion on the concentration of problems with specific geographical conditions.

Sen. Kirt asked about county funding for roads and bridges. There was discussion about other funds counties have to add to their funds for roads and bridges, as well as past practices of bonding before the passage of CIRB.

Rep. Hilbert asked for an explanation of how West Virginia has no structurally deficient bridges. LOFT stated that West Virginia has deficient roads, but not bridges.

Upon approval from the Chairmen, Mr. Tom Bogdanowicz was recognized to discuss Finding 2. Director Jackson was recognized by the chairs for questions.

Rep. Boatman asked several questions about the distribution of funds, and the differences in Texas' management of county roads and bridges.

Sen. Kirt asked for an explanation regarding CIRB's accountability structures. Sec. Gatz stated there is joint accountability; ODOT validates the projects selected by counties.

Chairman Wallace asked about CED district boundaries and modifications. There was discussion about historical origins of boundaries, the flexibility of districts, and changes that have recently occurred with CED districts.

Chairman Thompson asked for more information about potential underutilization of federal funding. LOFT discussed other federal grant opportunities, particularly with recent federal funding. Secretary Gatz confirmed he ODOT is seeing more discretionary opportunities in the form of grants, and that ODOT offers expertise in grant writing to counties.

Director Jackson was recognized to present Finding 3 and then yielded to questions.

Chairman Thompson inquired about whether counties are resistant to ODOT. There was discussion about what ODOT has seen, what standards are in place and the jurisdictional responsibilities of both ODOT and Commissioners. Questions from Sen. Simpson prompted a discussion of how vehicles and traffic have changed, and with that, load capacity of bridges have been affected.

Chairman Wallace asked for confirmation that Logan County opted out of participating in CEDs. There was discussion and confirmation provided of this recent action. Chairman Wallace followed up with a question to confirm that Logan County is still receiving CIRB funding, and the benefit to a county for opting out.

Rep. Hilbert noted that a county commissioner was present and asked the chairs to recognize him for input. District 1 County Commissioner Mark Hager was recognized by the chairs. He said his county is next to Logan County. It was his opinion that Logan County likes the autonomy of managing their resources. County Commissioner Hager also detailed how Cleveland County has changed CEDs three times. He also thought the eight transportation districts originated from congressional district boundaries at the time they were established. There was additional discussion and follow up questions about the differing district boundaries and whether they are defined in statute. Chairman Thompson asked whether there would be any benefit to aligning the two sets of districts. Sec. Gatz said that it could be in some ways, but did not consider it critical.

Director Jackson asked the chairs to recognize Mr. Ward to discuss Finding 4. Director Jackson was then recognized by the Chairmen for questions.

Chairman Wallace recognized Sec. Gatz for comments; he had no additional comments at this time.

Director Jackson was recognized to provide an overview of recommendations to the agency and policy considerations for the Legislature. He noted there were many included in the report and out of respect for time, would be touching on just a few but would answer questions on any.

Director Jackson was recognized by the chairs for questions.

Sen. Kirt inquired if there was a way to clarify that counties hold up their part regarding maintenance. Director Jackson said he would be remiss not to point back to the success of CIRB, but that criteria could be put in place to protect investments for a longer period of time. There is also an opportunity to pull best practices from other states and make it easier for commissioners and ODOT.

Rep. Hilbert asked LOFT to analyze when districts may be able to reach a point of having no structurally deficient bridges. LOFT agreed to examine data for the purpose of projecting when this goal could be accomplished. Rep. Hilbert stated that we went from one of the worst states to the best on the state highways, this is why we would like to look at. Director Jackson said that the office would conduct additional analysis and we will separate the districts and current funding levels.

Chairman Wallace asked ODOT if they are able to put in place maintenance agreements with counties that are getting a bridge build with CIRB funds. Sec. Gatz said he would recommend that maintenance and operation funds that are now available to counties have maintenance agreements. Sec. Gatz said he hoped inspections would also address maintenance issues.

Chairman Thompson discussed the appropriated funds and amount of encumbered dollars. Sec. Gatz said there were solid recommendations within the LOFT report that the agency would act on and highlighted a need to have an optimized investment strategy and get money to the ground more quickly.

Chairman Thompson asked whether ODOT collects information about weights and measures for county roads, particularly for oil and gas vehicles and equipment being brought out to marijuana farms.

Chairman Thompson stated those issues will have be addressed and that he didn't think anyone was running weights and measures. Chairman Wallace said that Lincoln county does some weights and measures.

Sec. Gatz was recognized for closing remarks. He expressed appreciation to the chairmen and committee members, and all of the traveling public. He said improvements have to be made and the agency is trying to make things better. Sec. Gatz said the department appreciates the attention on the CIRB program from LOFT's report and considers it a wealth of information.

Director Jackson thanked Sec. Gatz and the ODOT team for the speed with which they shared data. He noted CIRB has been a successful program, and his hope that the report's suggestions may make it a little stronger.

New Business:

The chairmen set a date of July 21st at 10 a.m. for the next meeting of the committee.

Adjourned:

The meeting was adjourned at 3:54 pm.