

Minutes of the Joint Legislative Oversight Committee

October 5, 1994

Senate Majority Caucus Room
Boise, Idaho

The meeting was called to order at 9:45 a.m. by Co-chair Representative Bruce Newcomb. Other members present were Co-chair Senator Bruce Sweeney; Senators Atwell Parry, Sue Reents, Grant Ipsen, and Representatives Kitty Gurnsey, Gino White, and John Alexander. Staff members present were Nancy Van Maren and Margaret Campbell.

Senator Parry moved to review the minutes after lunch. The motion, seconded by Senator Reents, was carried by unanimous voice vote.

DEVELOPMENTS TO DATE

Ms. Van Maren reviewed the progress made on four primary goals in the first four months of the Office of Performance Evaluations' operation. She recruited and hired two evaluators and an administrative assistant, established an office, and has had several contacts with individuals and agencies to explain the process of performance evaluation. Ms. Van Maren has also developed recommendations for the performance evaluation function in Idaho that will be discussed during the meeting, and her staff have compiled requested background information on a few potential evaluation topics for discussion.

ROLES OF THE OFFICE OF PERFORMANCE EVALUATIONS

Ms. Van Maren reviewed three roles of the Office of Performance Evaluations (OPE) in Idaho. First, the OPE will conduct broad-based evaluations that look at results of programs, systems, and decisions, according to the charge in § 67-457 through § 67-463. This is a traditional role, guided by standards found in the "Yellow Book," *Government Auditing Standards*. Second, OPE is involved in the state agency performance reporting process, as found in Idaho Code § 67-1903; the statute requires state agencies to submit a copy of their performance standards to the Joint Legislative Oversight Committee. This information will be used in the evaluation process. Third, the OPE will respond to concerns that come into the office from citizens and state employees.

Ms. Van Maren proposed a policy for dealing with citizen concerns. The committee discussed at some length whether the OPE is the appropriate office to listen and respond to these concerns. Chair Newcomb invited Mr. Chuck Moss from the Division of Financial Management (DFM) to address the committee regarding this issue. Mr. Moss said the Governor and state agencies respond to many concerns each week; it would require a significant time commitment for the OPE if it were to start doing the same. He added that, in regards to the state's performance reporting process, the Legislature should

consider establishing statewide goals and priorities in the next session, to help direct agencies in establishing their own goals.

In further discussion, Representative Gurnsey suggested a need to become more involved in citizens complaints. Senator Ipsen described what Texas had done in their statewide performance audit, including the establishment of an 800 number to field calls from citizens and state employees. He told the committee that the best ideas for efficiency come from people who do the work, not management.

In discussing Ms. Van Maren's suggestion that she fully document reports that come into the OPE, determine the best course of action after preliminary review, and refer them to the appropriate authorities, Senator Parry pointed out the limits of the OPE's small staff. Representative Alexander said he thought the OPE should release a few reports before trying to take on too much. Chair Newcomb reminded the committee that the purpose of this function is not to be a collector of citizen complaints, but to help agencies operate more efficiently. Mr. Moss suggested the OPE look at the "green sheets" DFM maintains on citizen concerns to get a better idea of the number and type of complaints that come in. He estimated that the Governor receives 50-60 each week from citizens.

Representative Gurnsey moved to have the OPE review DFM's "green sheets" and present an overview at the next meeting. Representative White seconded the motion and it was passed by unanimous voice vote. The committee decided to reconsider a policy for handling these concerns at a future meeting. Until that time, the committee asked the OPE to continue following the policy as outlined in the *Proposal for Review of Citizen Complaints or Allegations* (Attachment 1).

PROCESS OF PERFORMANCE EVALUATIONS

Ms. Van Maren went over the steps in the process of performance evaluation from topic selection through report release (Attachment 2). She listed several sources of ideas for topics: the Joint Legislative Oversight Committee, a survey sent to all Legislators approximately twice each year to solicit topics, citizen contacts, findings of legislative fiscal audits, and information from OPE staff. The OPE will compile a list of topics from all sources to present to JLOC, which will then narrow the list for background work. Typically, JLOC will meet again four to six weeks later to select the topics for full evaluation, usually based on the background work.

In describing the process, Ms. Van Maren explained that when an issue is selected for evaluation, the co-chairs of JLOC, on behalf of the committee, send a letter to the affected agencies, inviting the director(s) to attend an opening conference. The conference usually takes place within two weeks. At that time, agency officials discuss with the OPE the evaluation request and data that will be needed. In collaboration with the agencies, the OPE establishes the outline of a work plan.

Mr. Moss reminded the committee about the necessity of including a Request For Proposals (RFP) in this process. Ms. Van Maren clarified that the RFP process occurs when the scope of the project has been determined and a workplan established.

After discussion, the committee decided that Legislators should not attend opening conferences between the OPE and agency officials, so that it would be clear that they were not influencing the evaluation. **Representative White moved that opening conferences be attended by members of the OPE and not members of the Legislature, so that the evaluation would be in the hands of the OPE once a topic had been selected. Representative Alexander seconded the motion, and the motion passed by unanimous voice vote.**

In discussion, Ms. Van Maren pointed out that work papers are confidential and would not be shared with JLOC until the report is released to the public. According to existing statutes, materials protected by the public writings act are available to the OPE in conducting evaluations, but are not made public with work papers.

When the report is complete, a final draft is sent to the evaluated agencies for review. A closing conference between the OPE and the agencies is held to discuss the draft and ensure the report's accuracy. A final version is sent to the agency, the Governor, and the State Auditor, and their written responses are included in the final, published report. After discussion, the committee decided that the report, with the OPE recommendations, should be bound before the committee discusses it, and that the committee will consider clarifying related language in the statute in the future. The committee asked that the OPE send a bound copy of the report to each member 3–4 days before its release at a committee meeting—where it officially becomes public record—with the understanding that it remains confidential until its release.

Representative Gurnsey said that it is important for the committee to follow through with the report and see that action is taken on the findings. Senator Parry agreed that implementation was important, but cautioned that the committee does not have power to issue ultimatums. Chair Newcomb said he hoped that having the JFAC chairs on JLOC could help implement findings with budgetary implications.

Ms. Van Maren ended her presentation by explaining that an executive summary will be included in all reports. A press release will be issued with the report, and a one page summary of the report is optional, but often useful. In addition, the OPE is establishing a system to track report implementation. This system will help generate a summary of report implementation. Ms. Van Maren noted that a request to do an in-depth follow-up report is a “resource decision,” and becomes part of the topic selection process.

PROPOSED MISSION STATEMENT FOR THE OFFICE OF PERFORMANCE EVALUATIONS

Senator Ipsen explained each element of the proposed mission statement, which addresses both public confidence and accountability in government. After the committee discussed whether to include an additional statement related to performance reporting, **Representative Gurnsey moved to accept the mission statement as drafted. Representative White seconded, and the motion passed by unanimous voice vote.**

Chair Newcomb adjourned the meeting for lunch.

STAFF INTRODUCTIONS

When the meeting reconvened, Chair Newcomb asked Ms. Van Maren to introduce her three staff members. They then answered questions from committee members.

Senator Parry moved, seconded by Representative Alexander, that minutes of the committee's last meeting be approved as written. The motion passed by unanimous voice vote.

DATA PRIVACY AND PERFORMANCE EVALUATION

Chair Newcomb called on Ms. Van Maren to discuss privacy in the performance evaluation process. Ms. Van Maren stated that there are three issues regarding data privacy and performance evaluation: access to *our* records; *our* access to *others'* records; and the protection of state employees who report on deficiencies. The last relates to the "Whistleblower" law which will be discussed later.

Ms. Van Maren said that while the OPE is performing an evaluation (page 6 of the statute), "*...all documents, writings and information transmitted pursuant to this subsection shall be deemed confidential and shall not be released to the public prior to the time the committee issues its performance evaluation...*" Subsection (3) references Chapter 3, Title 9, of the *Idaho Code*, which is the public writings act.

Chair Newcomb said that this information will fit into the committee's discussion of suggested changes in the statute later in the meeting. Ms. Van Maren clarified that, under the provisions of the statute, the OPE has access to records that are covered by the Public Writings Act, if necessary, to fulfill the requirements of an evaluation. When the work papers become public, the information that was previously confidential retains that status.

Senator Ipsen reviewed the status of the "Whistleblower" statute. He reported that there is some concern as to whether this statute protects the person while the complaint is being evaluated. Should there be a provision incorporated to provide that there is no adverse action taken while the allegation is being looked into? In addition, he cited page two, lines 18–20: "*Such communication shall be made at a time and in a manner which gives*

the employer reasonable opportunity to correct the waste or violation.” He thinks this should be corrected, but that it should not be misused to protect someone who is entering a frivolous claim. Senator Ipsen said the “Whistleblower” law is important to the work of the OPE because this is where much of their help will come from; it was a companion bill to the establishment of the office. He added that he would like information about whistleblower protection to be distributed to state employees.

Regarding lines 18–20, Senator Sweeney asked what would happen if there were a question whether the employee’s allegation was true. Does the law provide for that determination? Senator Ipsen reported on similar initiatives in Alaska and Washington and said he would like to come up with a way to give protection *and* incentive to state employees with ideas about how to improve efficiency. Senator Parry said it would appear that using the word “alleged” in the phrase would cover the situation. In other words, changing the last of the sentence to read: “*alleged* waste or violation.”

APPROPRIATION REQUEST FOR FY96

Chair Newcomb reported that Ms. Van Maren returned 23 percent of her budget allocation for FY94 to the state coffers. He stated that the FY96 request that went before the Legislative Council asked for no increases, except those recommended by the DFM for all agencies.. Both CEC and inflation can be set by the Legislature and could reduce the total request accordingly. There had been no questions about the OPE FY96 request at the Legislative Council meeting in September. Senator Parry said that the Council’s only concern was that the action of the Legislature could still change the 3.4% inflation and 6% for CEC.

Chair Newcomb said that FY95 funds were given as a lump-sum, so that the allocations listed on the second page are subject to change. Ms. Van Maren said that because the OPE budget is found within the overall LSO budget, OPE’s request was approved by the Council in September. In the future, JLOC will review it before it goes to the Council. Senator Parry added that, in future years, Legislative Services may not receive a lump sum appropriation. The JFAC reserves the right to put a lump sum provision on an appropriation.

ORGANIZATION RULES FOR JLOC

Ms. Van Maren reported on three items at this point. First, JLOC was created by statute which qualifies it as a public agency. It is not considered a standing committee, so may not be able to introduce legislation. The committee discussed several options that would allow them to introduce legislation, and discussed how the JFAC and Legislative Council are configured.

Chair Newcomb commented that any legislation should be introduced through one of the co-chairs *or their designees*, the same as any in other committees where the chairs ask someone to carry a bill.

Representative Gurnsey moved, seconded by Senator Parry that the committee adopt option four on the handout, incorporating language (1) to include the co-chairs designees; and (2) that the Chairs introduce any legislation through their respective legislative bodies.

In discussing the motion, Senator Reents questioned if this option would require that a bill be introduced or referred to a committee and/or would require action in either the House or the Senate, depending on where introduced. Chair Newcomb responded that, if presented within the time limit, the legislation could even be introduced on the floor as an individual bill, although he doubts this committee would want to proceed that way. More than likely, the committee will want to present any legislation as a committee bill.

In response to Senator Ipsen's request for an explanation of what types of legislation are in question, Chair Newcomb said that this committee would recommend and attempt to see that legislation is enacted if it comes to their attention, as a result of a performance evaluation, that a particular change in legislation is needed to make recommended changes within an agency. Senator Sweeney said this is really the only "hammer" available. If the committee and performance evaluation staff want agencies to comply, it must be by way of presenting a bill to the Legislature and should be done collectively.

Representative Gurnsey's motion before the committee, to adopt option four with inclusion of the language additions, passed by unanimous voice vote.

Addressing the second item, Ms. Van Maren discussed the possibility of the JLOC promulgating rules to guide the performance evaluation process. She introduced the rules followed by the legislative post-audit committee in Kansas. These rules govern both the fiscal audit and performance audit sections, so some do not apply to performance evaluation. Although Kansas has a thorough enabling statute for this function, their rules are also detailed; they address everything from definitions, how the work will be received, to the process for looking into complaints or allegations by citizens or state employees. In Kansas, senior staff receive topic requests directly from Legislators, and develop very brief "scope statements" (a summary of the issue, research questions, methodology, and timeline) in anywhere from a few hours to a week. The scope statements are presented to the oversight committee, which chooses audits from among them.

Ms. Van Maren said that the rules also include procedures for the release and distribution of reports, development of work papers, preliminary drafts, and how to present the reports. She explained that the director in Kansas had used the committee rules during her ten years with the Kansas office to explain the audit function to Legislators and provide some assurance to agencies, programs, and functions.

Senator Sweeney said that it is not unusual to make rules to indicate and reflect legislative intent. Such rules would give the committee a chance to interpret, just like any other agency, what the legislation creating this function means. He could see no reason

not to do this. Establishing rules may help to define things and make it easier to operate—not only for those that are undergoing evaluation, but for the OPE itself.

Representative Gurnsey questioned if such rules would have to be processed through the Administrative Procedure Act (APA) and if the JLOC would have to pay the \$148 page costs involved. Mr. Moss said he thought it would. Representative Gurnsey noted that the JFAC has its own committee rules, but does not have to go through the APA process. Senator Parry added that at the beginning of each new session the JFAC rules are discussed and accepted; he thought that any JLOC rules would not have to go through the APA process. The APA rule-making procedure is designed for those agencies that have an immediate impact upon all the public. These rules would be a guideline for this committee and provide understanding for those to be audited.

In response to an inquiry by Representative Alexander, Ms. Van Maren said that the intent of these rules is not only to formalize policies and procedures on paper, but also to provide committee members and the performance evaluation staff policies to which to they can refer.

Chair Newcomb commented that the rules may fall under the APA when they are used by an evaluator going into an agency and saying that “these are the rules and we have a right to be here.”

Representative Gurnsey suggested the committee study this situation further and defer any decision for later action. She said that any statement might also include the fact that this function will be reorganized every two years, realizing that new legislators may be appointed after the organizational session. The committee’s policy should be that rules are adopted at the beginning of each legislative session to govern during the two-year term. Chair Newcomb said he envisions two sets of rules: one that is similar to JFAC’s and the other that may require a legal opinion to determine its standing.

Senator Sweeney suggested the committee request Ms. Van Maren to draft rules that she perceives as necessary to operate properly. And then the committee can review the rules proposed to determine if they can be processed as committee rules or whether all or part of them fall under the APA. **Senator Sweeney's suggestion received the unanimous consent of the committee.**

CHANGES TO ENABLING STATUTE

Senator Sweeney discussed the proposed changes to the statute listed under tab ten of the committee’s binders. He said that the chairs would like to go over these changes, look at and discuss them, but not to act at this point. The first item is to change the reporting requirements for every time a report is complete. The first page also changes the title of Legislative Management System Analyst to Director of Legislative Performance Evaluations, a change which carries through the rest of the statute.

Senator Reents asked whether the committee should consider proposing that the Director of Legislative Performance Evaluation be hired by JLOC rather than the Council. Originally, the reasoning was that JLOC was not up and going and did not have any experience. Chair Newcomb responded that in previous discussions of this particular issue it seemed to come down to a debate on the balance of powers. He pointed out that Ms. Van Maren serves at the pleasure of the committee, which can terminate her position and determine her compensation. As it now stands, he is not sure if that portion needs changed.

Ms. Van Maren said that some states hire directors of performance evaluations for six-year terms, to overlap election cycles. It is an additional protection to the independence of the function so that the director is free to report all findings even if contrary to the interests of committee members. Chair Newcomb commented that he and the State Auditor have discussed giving the director a term of office. He said that it is probably better to have the committee in a position where it could terminate someone who turned out to be incompetent, and that he thought the person was relatively secure anyhow.

Senator Sweeney explained another proposed change that would combine § 67-460(1) into subdivision (2). Senator Reents suggested that “or programs” should be inserted after “agency” on line 29, page 2, so that the language would be broad enough to review the performance of any function.

In discussion, Chair Newcomb emphasized that collaboration with the agency in developing a workplan was important to retain, and that he and Mr. Moss had agreed on that step when the legislation was passed. Ms. Van Maren clarified that the deletion of § 67-460(1) is covered by § 67-461, which reads, “...*in consultation with the agency or program the director of legislative performance evaluations will develop a plan for performance evaluation.*” Senator Reents noted that the language under § 67-461 was probably removed to make sure that it does not look like JLOC is involved in the development of the work plans; the committee approves the evaluation only.

With the committee’s permission, Senator Sweeney invited Mr. Moss to comment. Mr. Moss said that the success of this process would be in getting implementation, which depends heavily on cooperation with agencies. It is important for the OPE to demonstrate trust with people. Some parts of the statute were included to encourage agency support. “We all want this to work and the employees want this to work, but it has to come from the fact that it’s a collaborative effort and that’s the philosophy we ended up developing in this bill, as you know Mr. Chair.” Mr. Moss also emphasized the importance of focusing on results, and encouraged the committee to consider these issues when they revisit the changes to the statute.

Senator Sweeney indicated that the committee was set up with four members of each party and equal representation from both houses to be as fair as possible. If the committee can’t keep it from turning political, it won’t make any difference because the

process will collapse; it will become useless if it isn't non-partisan. But, if agencies are essentially afraid of the entire Legislature, then that is another matter.

Mr. Moss did not think employees are afraid of the Legislature; rather, the employees want to do what the Legislature wants done. They want to be a part of the process as a participant, not in any punitive way. Representative Alexander told the committee that he has heard some agencies say they want to know up front what they are going to be evaluated against.

Moving on, Senator Sweeney requested that Mr. Moss comment on whether he thought the RFP had to be for the whole evaluation or a portion of it. Mr. Moss said the RFP could be for a portion of the evaluation. Some evaluations may not need portions contracted out, but "somewhere in that process there needs to be private sector involvement." In addition, he thought it could help agencies to accept this function.

Chair Newcomb said he learned that other states contract with private individuals or entities to do portions of evaluations. He said that for example, the OPE might use Boise State University or some other entity to conduct a survey. Chair Newcomb repeated that he thought collaboration on the workplan was an important part. He explained that "outcomes" had been stricken because the term "outcomes" is pretty restrictive, and this process would be broader. Ms. Van Maren said that performance evaluation sometimes looks at systems and how they operate, and sometimes management issues that deal with a process. Other times an evaluation looks at consistency with legislative intent. "Outcome" in the evaluation field denotes something very specific.

Mr. Moss noted that contracting portions of an evaluation may help keep criticism from the OPE. In addition, the Governor really felt that agencies would be more receptive if a lot of that work was initially done by contractors. Senator Sweeney said that the initial work will be conducted according to the current statute, but sometime before January the committee will have to decide whether it will be changed or not.

Senator Reents said she understood how an agency could be nervous if the word "outcome" were stricken, because it referred to something upon which they had already agreed. She encouraged the committee to find a way to leave some reference to "outcomes" in the Code, and said that outcomes are "not the whole thing, but [are] a part of what you would be looking at in an evaluation."

Representative White said that he had voted against the creation of this function. He was afraid of another agency developing, but thought the RFP process could help contain the growth of the agency. Senator Sweeney said that the "proof of the pudding" would be dollars spent compared to the dollars returned to the general fund because of the function.

Representative Alexander voiced reservation about making changes to the statute before an evaluation. Representative Gurnsey agreed and said the committee should first select an evaluation.

Senator Sweeney drew attention to the addition of (7), subpoena power, at the district court level. The rationale for adding (7) was that the reference in (5) to § 67-407 requires some action by the Legislature, which could potentially stall the process of getting information for several months. According to Ms. Van Maren, the addition of (31)(b) in the public records act was to clarify the reference to the committee as opposed to the Council, although, since it is created under the jurisdiction of the Council, it could be this power already exists. Upon request, Ms. Van Maren said she would look into whether § 9-340(31)(b) could be consolidated with the language in (31)(a). The discussion about changes to the statute were then concluded.

At this point Chair Newcomb announced that earlier in the day the tape recording machine failed to work. Ms. Campbell kept written minutes during that time, and any unrecorded minutes from the morning will be summarized from them.

GUIDELINES FOR TOPICS SELECTION

The Chair explained that the committee will consider some background papers that the OPE developed for possible topics for evaluation. After a cursory review, the committee will go into executive session, given two-thirds vote, to consider material that should be kept confidential. There will be no voting during the executive session, but vote will be taken at a reconvened time after the executive session.

Ms. Van Maren began by explaining the next three steps: after introduction of the information the six topics, the committee could discuss these and other potential topics, and then vote on which topic or topics to request the OPE move forward on. Ms. Van Maren suggested a timeline of 4–6 weeks to conduct more in-depth background research on 2–4 topics. The committee would then reconvene to select one or two topics for full evaluation from the background papers evaluation proposals. These documents will only be 3–4 pages each, but will provide more in-depth information, an idea of necessary resources, and a prospective methodology.

Depending on the topic(s) ultimately chosen, a report release by the beginning of the summer might be feasible. The report could contribute to deliberations by an interim committee if appropriate. The release of the report will overlap with the selection of the next round of topics. The second round of reports could then be ready for release at the beginning of the next legislative session, for use by legislative committees and the Legislature as a whole. Overall, Ms. Van Maren thinks that two rounds of topic selection each year is likely given current resources.

Ms. Van Maren explained this initial process has been different from the process the committee will follow in the future. She began with an overview of *The Guidelines for Topic Selection* (Attachment 3). The guidelines could be useful for committee members to keep in mind as they think about potential topics now and in the future. In general, the

questions that are appropriate for the OPE are evaluative and often analytical. The OPE followed the same format for the background papers that follow.

Ms. Van Maren then summarized the background information for the first topic on state motor vehicle use (Attachment 4). Committee members asked several questions about the data and Representative Gurnsey recommended that the OPE staff look at old Legislative audits for more information if this topic is selected.

Ms. Van Maren then summarized the information provided in response to questions about the State Liquor Dispensary. Chair Newcomb asked whether the OPE had conducted any background work on how and whether other states operate a bailment system. Ms. Van Maren said that they had not, but believed it would be appropriate to do so if the committee asked the OPE to look into it in greater detail. Representative Gurnsey noted that during her first year as a Legislator, she had proposed a piece of legislation to oversee the operation of the Liquor Dispensary, but that she was told it worked nicely as it was.

Ms. Van Maren summarized the next background paper dealing with state travel management.

In response to questions about frequent flyer miles accrued while on state business, Ms. Van Maren said that it is already state policy for employees to return frequent flyer miles to the state. Senator Parry said he believed that very few do. He added that a state travel agent could negotiate volume discounts from many carriers. He asked a member of the State Tax Commission who was present whether their agency made arrangements on volume. Commissioner Grant responded that they are currently working on an RFP with a few state agencies, such as Transportation and, she thought, the Department of Employment. Without the details in hand, she thought this would be a pilot project that could be made available to other agencies if successful.

Representative Alexander suggested the pilot study look at the cost savings private industry gets in travel. He also said that there were court cases dealing with the frequent flyers miles. He thought two airlines claim that the miles are the property of the traveler, rather than the company. Chair Newcomb said the OPE should consider potential cost savings for Legislators who travel on state business. Representative Alexander emphasized that he thought discount airlines within the state might be able to give the state the same benefits some large companies get.

Ms. Van Maren then summarized the background paper on the County Support Division of the Department of Revenue and Taxation. In discussion, Chair Newcomb summarized what had led up to the presentation of this background paper to the committee. He requested that the OPE look into the situation and provide information to the committee after he had received several complaints from county officials. He wanted to clear the air of any suspicion that this had been a “witch hunt,” and invited the Commission to answer questions from the committee.

Commissioner Anne Barker introduced the other three commissioners present, and two staff members who had accompanied them to the meeting, Henry Nagel and Marlene Beck. Commissioner Barker said that she did “not want to leave [the committee] with the idea that we have problems out there,” and she distributed a handout. (Attachment 5).

Commissioner Barker told the committee that when she took over responsibility for the County Support Division in January, she “asked the Commission what was going on,” but that she did not know there would be a problem until the programs were being installed in June or July of 1994, as stated in the background paper. She had since taken a number of steps to address the problems, making decisions listed on the handout. After going over some of the specifics of the handout, Commissioner Barker told the committee that August and September had been busy for them, but that prior to that counties had generally appreciated the programming support they received from the department. The Commission was finding that it was difficult to determine and maintain uniformity across the state because of disparities in county resources and needs.

Senator Sweeney asked Commissioner Barker whether the software had been tested before implementation, to identify problems prior to the implementation date. Commissioner Barker explained that the software had undergone alpha (theoretical) testing and beta testing with actual data in their office. She pointed out that there are differences in county complaints having to do with the level pay programs, and those related to the tax drive programs in the counties, for which the deadline isn’t until the fourth week of November. She reported that, to date, the Commission had not heard any complaints about the billing procedures, and the Commission had invited some counties to test the programs with their own data in the Commission offices.

Commissioner Barker further explained the testing procedures for level pay in the counties and the process of adjusting for “enhancements.” She realized they had not tested enough in the first go around in June. The Commission lost four key programmers in November and December of 1993, and hired new programmers in March, April, and May, providing “unique circumstances” related to the situation at hand. Chair Newcomb asked Commissioner Barker to describe the involvement of contractors in developing the programs. Marlene Beck confirmed that they had contracted with some “outside help to complete the level pay program.”

Representative White questioned whether the committee should be hearing from the Commission about the problem without first determining whether they were going to request a performance evaluation. Chair Newcomb explained that this was a process of gathering information. In response to the Chair’s question why the Commission thought this was a witch hunt, Commissioner Southcombe replied that the Commission had put a lot into this, was tired of it, and anxious to go onto something else once and for all. Chair Newcomb concluded by saying that he had requested Ms. Van Maren to do this background work. He wondered whether the problems could have been avoided, and said that he, too, was tired of hearing all the concerns from the county treasurers and

assessors. Asked if she had further comments, Ms. Van Maren said that she stood behind the information provided in the background paper, but would hesitate to go into further detail unless given an opportunity to verify all of the documentation and other information provided by the Tax Commission and County representatives.

Ms. Van Maren then reviewed the final two topics for which the OPE had prepared background information: Non-profit Entities Associated with State Agencies and Juvenile Offender Case Management.

Representative White questioned whether the survey would be sent to other Legislators to gather potential topics. Ms. Van Maren said that the survey would be used in the future.

At this point, Chair Newcomb cited legal information he received from the Attorney General's office this morning, and said he thought the committee should go into executive session to consider information that is not public record.

Representative Alexander moved to go into executive session, and Representative White seconded the motion. The motion was passed unanimously by voice vote and the committee adjourned into executive session. Present were: Co-chair Representative Bruce Newcomb, Co-chair Senator Bruce Sweeney, Senators Atwell Parry, Sue Reents, Grant Ipsen, and Representatives Gino White and John Alexander.

Executive Session.

Upon reconvening, **Senator Parry moved to request that the Department of Revenue and Taxation update the committee on developments, with the understanding that in December the committee would discuss progress and reconsider requesting an evaluation. Also, the OPE should make requests for information and documentation from the State Tax Commission and county officials in the interim, as deemed necessary by the Administrator. The motion was seconded by Senator Reents and unanimously passed by voice vote.**

Saying he did not want to overload the OPE staff, **Senator Parry moved to begin more background research on the topics of (listed in priority) 1. Non-profit Entities Associated with State Agencies; 2. State Motor Vehicle Use; and 3. State Travel Management, and present this information to the committee at the December meeting. Senator Reents seconded the motion and it passed unanimously by voice vote.**

Senator Sweeney said that the December meeting should occur during the organizational session so that there wouldn't be any additional travel expense—probably Friday, December 2.

To conclude, Ms. Van Maren announced training opportunities for the OPE staff and other legislative services members with Judith Brown and Jim Kent on October 8 and 9.

Judith Brown will also be providing training for state agencies on performance reporting the afternoon of October 7. Ms. Van Maren invited the committee members to meet with the trainers if their schedules allowed.

Representative White moved for adjournment, the motion was seconded by Senator Ipsen, and passed unanimously by voice vote.

Meeting adjourned at 4:30 p.m.