

Minutes of the Joint Legislative Oversight Committee

May 14, 1996

House Majority Caucus Room

Boise, Idaho

The meeting was called to order at 8:30 a.m. by Co-chair Representative Newcomb. Members present were Co-chair Senator Bruce Sweeney, Senators Atwell Parry, Sue Reents and Grant Ipsen, Representatives Kitty Gurnsey, Marvin Vandenberg, and John Alexander. Staff members present were Nancy Van Maren, Tom Gostas, Margaret Campbell, and Greg Arnim, contractor.

Co-chair Newcomb opened the meeting with a review of the minutes. **Representative Gurnsey moved to approve the minutes of the last meeting and Senator Reents seconded the motion. It passed unanimously by voice vote.**

OPE'S ROLE IN STATEWIDE PERFORMANCE REPORTING PROCESS

Co-chair Newcomb announced the co-chairs had invited Senator Hal Bunderson to speak to the committee regarding strategic planning. He called for a motion to confirm the invitation to an outside source to testify in front of the committee. **Senator Ipsen moved to hear from Senator Bunderson. Senator Reents seconded the motion and it passed unanimously by voice vote.**

Senator Bunderson reviewed the history of Idaho's strategic planning/performance reporting process. He said there was a need to integrate accountability into the strategic planning process. Idaho Code §§ 67-1901 through 1903 directed agencies to prioritize each of their programs and identify the measures against which they wanted their performance measured. The Division of Financial Management and the Joint Legislative Oversight Committee would receive these plans and review agency measures, providing feedback. He thought agencies could appear before JLOC to review their plans. Also, the legislation encouraged agencies to receive input from germane committees. Senator Bunderson said he thought JFAC could also use the agency performance measures by program. This would allow JFAC to focus on the agency's outcomes, rather than just enhancements.

Representative Vandenberg said he recalled a program similar to this, tried about twenty years ago, that was unsuccessful and wondered how this was different. Representative Gurnsey said she was concerned about the amount of money paid to consultants to develop strategic plans, and asked if outside consultants should be used. Senator Bunderson said each agency needed to decide whether to use consultants based on the availability of expertise within their organization. He said costs could be higher than a consultant's fee if strategic plans were not developed correctly.

Senator Ipsen said strategic planning came at an important time, with taxpayers' respect and attitude towards government suffering, demanding changes and accountability. Senator Reents said hearing the reports would improve communication between agencies and germane committees, but she did not think it would impact the appropriation process. Senator Bunderson said they would give JFAC the ability to make informed judgments based on operations.

Representative Vandenberg said he thought the reason the previous program did not work was a lack of follow through. Co-chair Newcomb said the program needed the support of the executive branch to be successful, and the agencies needed to believe the strategic plans were important to them. He asked what research had been conducted to determine this support. Senator Bunderson said that J. D. Williams, State Controller, was involved in the original legislation; Chuck Moss, then Administrator of Division of Financial Management (DFM), worked on the legislation and initiated training for some of the agencies; a Department of Health and Welfare administrator had said developing a plan was sound business practice, but would be hard.

Co-chair Newcomb said that the committee would be too bogged down if it heard every agency's strategic plan as proposed. He suggested holding hearings in the germane committees and bringing only those plans that may have problems to JLOC's attention. He said this direction should be set in law for future reference. Senator Bunderson said he would work with the committee to get it into law.

Co-chair Newcomb asked if there were any objections to hearing from Michael Brassey, Administrator of DFM. Hearing none, he invited Mr. Brassey to comment. Mr. Brassey said he had found strategic planning to be useful. Strategic planning was a natural extension of management responsibilities. It would allow DFM to compare the agency's understanding of its mission to the Governor's or Legislature's perception. He hoped that strategic planning would be a simple process with limited paperwork. He was not sure that the present statute was designed to encourage that simplicity; that would depend, in part, on how the Legislature reviewed the plans. If complex plans were well-received, use of consultants would increase and plans would sound nice, but mean little. Plans built from the bottom up may not be neatly packaged.

Mr. Brassey said the current statute may say too much. Also, it was difficult to determine what agencies were required to do strategic plans. The Legislature should determine which agencies should be statutorily required to do a plan, and how extensive those plans should be.

Senator Sweeney said that it sounded like the executive branch would be using the process. He said he feared that they had come to a dead-end in reviewing the plans because of the size of the committee's staff, unless someone like Mr. Brassey or JFAC started to use them. Mr. Brassey said that germane committees could review some plans, but an agency like the Department of Health and Welfare may require oversight from more people in the Legislature. Success depended on everyone participating.

Co-chair Newcomb suggested that the members of JFAC, Senator Bunderson, and Mr. Brassey get together and see what needed to be done to change the law and make this work.

Representative Alexander said JLOC should revisit this at a later date. He said it was valid to consider whether every agency needed to do strategic planning. Agencies should mail their reports to germane committees ahead of Session, and then report to those committees at the beginning of Session. Senator Ipsen said he hoped the legislative leadership would ask the germane committee chairmen to invite agencies to provide reports this year so that the program gets started.

REPORT RELEASE: *CONTRACTED VERSUS DISTRICT-OPERATED PUPIL TRANSPORTATION PROGRAMS*

Ms. Van Maren reviewed the findings and recommendations of the *Contracted Versus District-Operated Pupil Transportation Programs*.

Co-chair Newcomb acknowledged that Representative Black, Chairman of the House Education Committee, was present.

Senator Parry said that first impressions of the report led one to believe that contracting was more expensive than operating district buses, but further clarification of the report showed there was no conclusion as to whether one program was more expensive than another. He asked that this be highlighted. Ms. Van Maren clarified that individual district variables made it difficult to determine whether it was more expensive to contract. However, with current reimbursement calculations and differences in incurred costs, the state does pay more to contracting districts.

Representative Gurnsey addressed the report finding that transportation reimbursement would have been approximately \$700,000 less if a uniform method had been used to calculate reimbursable costs for the two groups of districts. She asked if the funds instead would have been distributed to the classrooms. Tom Gostas, Performance Evaluator, explained that was the case and clarified the department's rationale for reimbursing the funds as it did.

Senator Sweeney said that reporting needed to be uniform so reimbursement could be made more equitable. He asked if changes toward uniformity could be done by the State Board of Education, or if it required changes in statute. Ms. Van Maren said that tax exemptions and PERSI would have to be changed in statute, while reimbursement for some costs could be changed in administrative rule by the State Board. Decisions on calculation changes could be made by the Department of Education.

Senator Sweeney said there was a drastic difference between bus depreciation for contracting and non-contracting, and he thought they should be the same. Greg Arnim, OPE contractor, said that the \$.48 per mile difference was the difference in the amount reimbursed through the transportation program, not a difference in the cost of operation. Contracting districts spread bus depreciation costs over time through the tax laws. Non-contracting districts paid their depreciation allowance to a fund for the eventual replacement of old buses.

Representative Alexander questioned the difference in depreciation reimbursement. Mr. Arnim said that the assumption was made that the cost of purchasing the bus, depreciating the bus, and

interest and financing costs would be included in the contracts' bills. Ms. Van Maren said the overall assumption was that over time the contractor recouped his costs. Representative Alexander said that the state should consider a policy on reimbursing everybody equally.

Co-chair Newcomb announced that Representative Fred Tilman from the House Education Committee was present.

Senator Reents asked which ratio was better to use for comparability. Mr. Gostas said the cost per mile ratio had a stronger relationship with the total costs. Representative Gurnsey asked if it was district responsibility or parent responsibility to provide transportation to school. Mr. Gostas said that under state law the district must provide transportation for pupils that lived one and one half miles from the most appropriate school. Co-chair Newcomb asked about school districts' exemptions from fuel taxes. Mr. Gostas said the districts had two options: pay at the pump and file for a refund, or receive a discount at the pump. Mr. Arnim said the application for refund of the excise tax exemption had changed over the years. Ms. Van Maren said that some districts indicated they had not filed for a refund because of the paperwork requirement to receive so little benefit. Co-chair Newcomb asked why contracting buses were less fuel-efficient. Mr. Arnim clarified that the difference was due to the relative proportion of gasoline and diesel buses.

Co-chair Newcomb invited Representatives Ron Black and Fred Tilman to ask questions. Representative Black asked about the payment of \$700,000 through transportation rather than the school funding formula. He asked whether this had affected contracting and non-contracting districts differently. Further, he said that if only 77% of costs were reimbursed, this fell 8% below the 85% level stated in Code. Mr. Gostas explained that treating both groups the same would have a greater effect on contracting districts. It would lower what was being reimbursed overall. Ms. Van Maren added that districts would be affected differently by distributing funds through the educational funding formula, rather than as reimbursed for transportation expenses. What is taken away in transportation may return as more through the educational funding formula.

Co-chair Newcomb invited Dr. Anne C. Fox, State Superintendent of Public Instruction, to respond to the report and answer questions. Dr. Fox said that the report identified differences between the two groups. She said they were examining procedures to see what they could improve, and would be working with the State Board of Education to make changes. She said it would be hard to determine equitable reimbursement when some contractor costs were unknown; they needed to work with the contractors to see if they can get figures of costs for comparison. She pointed to variables where costs differed and acknowledged that the incentives for cost-effectiveness were few. Their staff was small, and doing the best they could.

Representative Alexander said that the overall cost to the property taxpayer may be higher in noncontracting areas than in contracting areas due to policy decisions at the state level. He asked how the Department of Education anticipated evaluating that analysis to make sure property taxpayers were not carrying a larger burden. Dr. Fox asked Jim Smith, Deputy Superintendent of the Division of Finance, to respond. Mr. Smith said the district had costs for transportation

whether they were reimbursed through the distribution formula or from the district's "discretionary money." Districts did not necessarily raise property taxes to run their transportation component. Representative Alexander said they were talking about two different things; property taxes were a large portion of a school district's funding. Mr. Smith clarified that school districts spend from a finite pool of money, but districts are affected differently by how funds are fed into that pool.

Senator Sweeney asked if the department had any reason why contracting and non-contracting districts should not be reimbursed the same way for the same costs. Dr. Fox said their goal was cost-effectiveness and safety. The three major categories of expense were buses, employees, and fuel. The department could look at more efficient routes, saving money in employees salaries, and more cost-effective ways of purchasing buses.

Senator Sweeney said that he wanted to know whether it was logical that identifiable costs reported to SDE should be reimbursed the same for contracting and non-contracting districts. This was important to answer before looking at efficiency. Dr. Fox asked Sarah Stobaugh to answer. Ms. Stobaugh said the only way to get equal reporting was to have districts report all of their costs, whether it was reimbursable or non-reimbursable. Senator Sweeney said it was a given that contracting districts were going to ask for whatever their costs were, including profit. Non-contracting districts report costs, but have some of those costs deducted, although they were included in the contracting reimbursements. Ms. Stobaugh said that it was easy to separate out through billings what was reimbursable and what was not. To separate out reimbursable and non-reimbursable costs for the contracted operations, SDE established a funding factor based on what a district reported for reimbursable trips and non-reimbursable trips.

Co-chair Newcomb asked why the department could not ask contracting districts for capital outlay costs; they were contracting with a public entity and should be able to get that information. Ms. Stobaugh questioned whether contractors had to reveal their financial information. Co-chair Newcomb said that the department should research that. He asked what Dr. Fox intended to do about the rule on \$700,000. Dr. Fox said they would make the adjustment.

Representative Alexander asked Mr. Arnim if a school district would appreciate knowing how they were going to be reimbursed, in order to issue contracts accordingly. Shouldn't the state standardize its reimbursement policy? Mr. Arnim said it was extremely complex. As a school district administrator, he would object to what might be the equivalent to the state fixing prices. Representative Alexander suggested ways by which a reimbursement factor could be set up.

Senator Parry asked if accountability would improve if the reimbursement rate were changed to 50%. Dr. Fox said district people were doing a good job and there did not appear to be excesses. A reduction in reimbursement would force them to ask for reimbursement of their expenses from some other avenue. Senator Parry asked if the districts would file for their fuel tax refunds if the reimbursement rate were reduced to 50%. Ms. Stobaugh explained changes in the tax laws in the last five years. Ms. Van Maren said the report's finding on fuel tax remained the same.

Representative Black stated that one reason these evaluations were requested was that there did not appear to be anything in the current code that creates an atmosphere of cost-effectiveness. Could a standardized or average cost per mile be established that could be reimbursed the school districts, so that if they were frugal, they could use savings elsewhere? If they spent over the reimbursed amount, the local board could take them to task for it. He meant distributing funds to the district depending upon how many miles were claimed and verified.

Ms. Stobaugh said that Utah had a formula SDE staff had been looking at. Certain costs of operating transportation are driven by either time, mileage, or administrative costs. The formula paid X number of dollars per mile, plus X cents per minute, plus a percentage of administrative costs. That would be impossible for Idaho to do without some method, statewide, of agreeing with districts that their routes were as efficient as possible.

Co-chair Newcomb called for a 15 minute recess.

Co-chair Newcomb asked for a motion regarding the acceptance of the report. **Senator Parry moved to accept the report as prepared, with the understanding that the Office of Performance Evaluations would work with the Department of Education to come up with some incentives to improve accountability from the school districts. Representative Vandenberg seconded the motion.**

In discussing the motion, Senator Parry said that this and the other reports had provided insight and answered questions about school transportation. It was time to take it one step further and come up with recommendations for the Legislature. They needed to know ways to get more accountability and develop incentives for school busing programs. This did not need to take a lot of time; the OPE staff had already researched much of the information.

Senator Reents said Legislators from JLOC and the chairmen of the Senate and House Education committees needed to look at the four reports and work on recommendations for the next Session. Senator Sweeney added that change could not be instituted until all costs were gathered. JLOC, as established by statute, had the power to look at contractors' costs. Senator Parry said he agreed with Senator Reents' comments and said the purpose of his motion was not to just accept the report and let it lie. He hoped the OPE could come back and suggest trying different avenues.

Senator Ipsen asked if there should not be some cooperative efforts with Legislative Audits. Ms. Van Maren said they may be able to help out if it were necessary and included in the motion. Co-chair Newcomb said this was a legislative committee, and if it was the request of this committee to have Legislative Audits work on this, there would not be a problem. Senator Parry said Legislative Audits and Budget and Policy Analysis would be happy to help; it would not take a motion to ask them to help.

Ms. Van Maren said that the committee's request may require additional data gathering, as with actual contractor data. She suggested that there may be a need for two separate final products, one the independent product of the OPE and the other a set of policy options developed in

collaboration with the working group requested. She pointed out that this was a unique request of an office whose role was primarily after-the-fact, independent analysis. Representative Newcomb said he saw no objection from the committee.

Representative Gurnsey suggested that the Legislature might freeze transportation funding at the same rate of increase as the public school appropriation. She would like the work group to think about that. It was a realistic way to force a district to make decisions to live within the parameters.

The motion passed unanimously by voice vote.

REPORT RELEASE: USE OF BUS ROUTING SOFTWARE IN IDAHO SCHOOL DISTRICTS

Ms. Van Maren reviewed the findings and recommendations of the *Use of Bus Routing Software in Idaho School Districts*.

Senator Sweeney asked how the Legislature could get information on the most efficient routing. Ms. Van Maren said that it would involve looking at individual districts and circumstances, and comparing it with similar districts. David Hahn, OPE contractor on this report, said that North Carolina was the only state that was far enough along in their program to determine transportation efficiency, and their cost savings were in larger districts.

Representative Gurnsey asked if they had looked at cooperation between adjoining school districts to increase routing efficiency where there were two buses, one from each district, traveling the same route. Ms. Van Maren said they had not.

Co-chair Newcomb invited Dr. Fox to respond to the report. Dr. Fox said that they recommended the department continue to reimburse for the software. It was important to start somewhere and learn the technology. It would provide more service benefits and allow the department to respond to the Legislature's request for savings. She said in some cases more efficient routes had been developed in school districts, only to be rejected in response to public pressure. The department could provide more training and develop a survey tool to get information back to the software developer to improve the programs. They would like to develop a statewide software system, similar to Utah's, which would cost about \$1 million to install.

Representative Alexander asked if the department had established a break-even point at which they would determine investment in the statewide system technology was worth it. Dr. Fox said the department would take its time to develop an analysis and bring it to the Legislature. Ms. Stobaugh said they could not quantify the amount because there would also be service benefits, which may outweigh the financial benefits.

Co-chair Newcomb said that since other states had been unable to quantify their savings, the department should wait until such time that they can show it is cost-effective based on other

states' experiences, using Utah as an example. Dr. Fox said that without opportunity and experience with technology at the district level, they could not get to the next step.

Co-chair Newcomb said it was reported that routing software savings were from districts with at least 20 buses or student enrollment of more than 2,500, but that only one-fourth to one-third of Idaho districts would be big enough to benefit from routing software. Mr. Hahn said that several factors had hindered development of routing software in the districts that had been reimbursed. Ms. Van Maren said that the process of getting software operational was intense. Senator Sweeney said that district politics were always going to be part of determining routes; we had to count on that, but develop the most efficient routes and reimburse accordingly. Dr. Fox said that was why the department did not want to give up on the idea of statewide routing software.

Senator Reents moved to accept the report, and Senator Ipsen seconded it. The motion passed unanimously by voice vote.

Co-chair Newcomb adjourned the committee for lunch.

STATUS REPORT ON PREVIOUS REPORT RECOMMENDATIONS

Pupil Transportation:

Ms. Sarah Stobaugh reported on the progress the Department of Education had made on the recommendations in *Oversight of Pupil Transportation Contracts*, released in February 1996.

- Kirby Nelson, Deputy Attorney General for the Department of Education, had been working with the Attorney General's office to develop a new model contract for use by the school districts.
- The department had made arrangements with the Attorney General's office to review all pupil transportation contracts for compliance with legal requirements before they become effective.
- The department had developed a list of interested parties that school districts would contact when preparing to bid transportation contracts.
- The department had provided a quick list for districts to follow when preparing to bid for transportation contracts that would assist them in complying with all applicable laws and regulations.
- The department would request a written response from certain districts whose contracts may not be in compliance with all legal requirements. They would be asked to identify steps that had been or will be taken to correct potential legal problems. This would be due June 15.

Ms. Stobaugh reported on progress relating to *Safety Busing in Idaho School Districts* recommendations.

- The department formalized their method for calculating the cost of transporting non-eligible riders. They had notified each school district of the method and had identified a method to use in counting student ridership.
- The department had corrected the inconsistencies in the adjustment made for transportation of non-eligible students.

Ms. Stobaugh said remaining recommendations in all four reports would be considered as the purpose and goals of the pupil transportation section were evaluated at a broader level. Senator Parry said he appreciated the work the department had done, and complimented them on it.

Senator Sweeney asked if there had been any resistance from school districts regarding compliance with contracts. Dr. Fox said that, to her knowledge, districts had been working quickly to correct the problems. Some contractors had requested a formal meeting with Ms. Van Maren to talk about some of the issues raised in the Oversight report. Co-chair Newcomb suggested the contractors also talk to the Attorney General's office.

Medicaid Services for Children With Disabilities

Mr. Dan Medenblik, Performance Evaluator, provided an outline of events after the release of the report, *Medicaid Services for Children With Disabilities*. **Senator Reents asked that OPE formally forward the Medicaid recommendations to the Governor's Medicaid Advisory Council for their first round of meetings May 15.** Senator Sweeney asked what the Senate Health and Welfare Committee's response had been to the presentation of the report. Senator Ipsen said he thought reports should be presented to the germane committees in every case. He suggested the presentation be made early in the session.

State Travel Management

Mr. J. D. Williams, State Controller, gave an update on changes to the travel regulations since the August 1995 release of *State Travel Management*. Senator Sweeney asked if agency heads monitored the cost of hotel rooms and required their employees to shop around for the best rate. Mr. Williams said that he had a state-of-the-art accounting system that tracked expenditures; travel could be tracked and agency heads held accountable for those expenditures. Representative Gurnsey asked if the Board of Examiners was going to tie lodging reimbursement rates to the federal rates, as recommended in the report. Mr. Williams said the subcommittee had decided not to follow that recommendation: the average charge in the state for a motel was \$44, which was about the same as the state rate under the federal per diem maximums. Representative Alexander said that if lodging expenses were at the discretion of the agency heads, at least the federal per diem rates would cap the amount. He thought the report recommendation was sound.

Ms. Pam Ahrens, Director of the Department of Administration, reviewed the progress her department had made on implementing a state travel card. She said draft bid specifications had been reviewed by four different state agencies. A subcommittee of fiscal officers from several agencies had also reviewed the draft specifications. There were four unresolved issues that

needed resolution to proceed: 1) finalization of the state travel regulations; 2) agencies' objections to mandatory card use; 3) decisions to centralize or decentralize card administration; and 4) the ownership and issuance of the credit card. It had been agreed that the card needs to have the highest possible level of statewide and national acceptance, ATM capability, on-line, real-time reporting capability, and the capabilities of a MAG or SMART card.

Representative Vandenberg asked why it was necessary to have a card with ATM capability. Ms. Ahrens said this provided a way for the traveler to get cash for other expenses, such as payment to a taxi driver. They were trying to cut down on travel advances. Senator Sweeney asked why there was opposition to a mandatory travel card. Ms. Ahrens said fiscal officer concerns centered on the paperwork and whether each employee would need to be pre-qualified before receiving a card. Also, some agency heads preferred to be autonomous. Senator Sweeney said that issuing state warrants required more paperwork than the use of a card. Ms. Ahrens said she had information that showed it would cost significantly less to use a travel card over issuing warrants. The department was aggressively pursuing the travel card.

Co-chair Newcomb said the committee needed to discuss personnel compensation and needed a motion to go into executive session. **Senator Reents moved to go into executive session, and Representative Vandenberg seconded. All members were present and the motion passed unanimously by roll call vote.**

The committee went into executive session.

Upon reconvening, **Representative Gurnsey moved to give Nancy Van Maren the three percent increase for state employees, plus a five percent merit increase beginning July 1, 1996. Representative Alexander seconded the motion, and the motion passed unanimously by voice vote.**

TOPIC SELECTION

Review of release timeline, resources

Ms. Van Maren reviewed the importance of timing the release of reports to be of greatest use to the Legislature. Senator Parry suggested the committee consider a mid-December or early January meeting. Other members discussed meeting in conjunction with the Legislative Council meeting in October.

Senator Parry moved to leave the timing of the next JLOC meeting to the co-chairs. Senator Ipsen seconded the motion, and the motion passed unanimously by voice vote.

Ms. Van Maren described a briefer type of report, an Evaluative Review, for the committee's consideration. The process for conducting the reviews would be the same as for a full report, but the review would be only four to eight pages in length. The primary difference was a more limited scope. Also, the review would not describe methods or details of how they arrived at conclusions; these details would be in the workpapers. Using examples from Florida, Ms. Van

Maren said the agency response is summarized in the review but not printed with it. Doing this in Idaho, however, may require a change in the committee's enabling statute. Ms. Van Maren said that in some cases doing the shorter review did not require less time.

Committee members said they thought this briefer review could work well in some cases.

Release of background papers

Mr. Medenblik summarized the background paper, *Child Protection Services*.

Senator Reents asked who would make up the citizen review panels. Co-chair Newcomb asked Roseanne Hardin, Deputy Administrator of the Division of Family and Community Services, to respond. Ms. Hardin said department staff went into the communities to talk with people and circulate application forms. They selected panel members according to geographic and gender representation, and found people who were not professional advocates or professionals involved in the system. The size of the panel was eight members, all approved by the Director of Health and Welfare. Panel members were allowed to sit in on child protection hearings, ride with police officers and child protection workers involved in investigations, and talk with prosecutors about the decision-making process. She said the cases they review were selected randomly by computer, and had been closed for at least three months. In response to questions from Senator Reents, Ms. Hardin said panel members each signed an oath of confidentiality and had been appropriately respectful of the privacy of the people. Senator Ipsen said he was pleased with the progress of the citizen review panels, and said it could make a tremendous difference.

Mr. Medenblik summarized the background paper *State Reimbursement for Long-Term Care*.

Senator Sweeney said he had been asked what the effect was to the taxpayer when additional nursing home beds were built. He recalled a problem with nursing home turnover at one point, and thought this background paper had answered his remaining questions.

Ms. Van Maren reviewed summaries of Legislators' responses to the legislative survey, prior requests from Legislators, state employees, and other citizens, and several other topics about which more details were known.

Representative Gurnsey said that many of the Legislators' concerns could be handled in the same manner as last year. Questions could be answered by another legislative staff member. She had an interest in the Land Board and land exchanges. She said legislation had been passed in 1990 that seemed to contradict a Land Board decision from 1992. Representative Vandenberg said, based on his experience in the Department of Lands, this was something worthwhile to investigate. Co-chair Newcomb said he was unsure the committee would want to get involved in the controversy surrounding leases to Marvel, but they should look at the issue of fair market values. Representative Vandenberg cited the Idaho Admissions Bill. He said he was afraid the state had not gotten the real value out of the sale of lands sold to build and maintain the Capitol.

Representative Alexander said the topic may be appropriate for an evaluative review. Co-chair Newcomb said it was a legitimate question, but that there would be few options for the Legislature if the Land Board had higher authority.

Representative Gurnsey moved to do an evaluative review on whether the Land Board is getting fair market value returns on their leases. Representative Alexander seconded the motion.

Members questioned which leases would be involved and decided on leases in general.

The motion passed unanimously by voice vote.

State collection and distribution of child support payments

Representative Vandenberg said he had been concerned with a situation in Coeur d'Alene having to do with the receipt of child support payments. He said he had contacted Ms. Van Maren because he thought a procedure should be in place to ensure funds were deposited and thought an evaluation of the system statewide might be appropriate. Since that time, he thought there had been a resolution to the problem and a background paper would not be necessary. Mr. Kirk had addressed the issue in the Council meeting the day before. He asked that OPE follow up and make sure that safeguards had been put in place. Ms. Van Maren said she would talk with Mr. Kirk and get information back to Representative Vandenberg.

Substance abuse program inspectors

Several Legislators had requested an evaluation wanting to know what the substance abuse program inspectors' responsibilities were, how well they did, and how many were necessary. Representative Alexander asked if there would be enough potential cost-savings to pursue this topic. Ms. Van Maren said she did not anticipate any major cost-savings but the topic was appropriate for program evaluation. Senator Reents said that since the reduction would not take place until July 1, the timeliness of the report may be off. Ms. Van Maren said one of the Legislators who had requested the topic wanted an evaluation of the work of the seven individuals who held the positions, rather than of the changed configuration.

Representative Gurnsey said that she did not think any action should be taken at this time. Any problems with the staff reduction would be brought to the Legislature's attention next session. Ms. Hardin said that she had met with a task force addressing substance abuse issues. The task force will examine the effect of the cut and make recommendations to the department. She offered to supply JLOC with copies of their task force minutes. The committee agreed.

Idaho Racing Commission

Ms. Van Maren said that two Legislators had brought concerns with the Racing Commission to her attention, saying they discussed the possibility of a performance evaluation in lieu of an interim committee to examine alleged problems in the commission's policies and management.

Senator Reents asked how much of the state's resources were devoted to the racing commission. Representative Gurnsey said the state received about \$150,000 which supported public schools. Senator Sweeney said that the big projects they get into should have substantial dollars involved. Co-chair Newcomb said the Racing Commission had always been a controversial subject.

Senator Reents said there was not great potential for cost-savings, although there was evidence of deficiency. Could the committee do anything about it when other legislative action had been ineffective? **Representative Gurnsey moved that the committee request background information from the Legislative Auditor as to where commission funds come from and where they are disbursed before determining whether to pursue this topic. The motion passed by unanimous consent.**

State-owned housing

Ms. Van Maren said concerns had been expressed that state-owned houses were rented to state employees for below-market rates, in competition with landlords in local communities. At low rental rates, state-owned units were not always self-sustaining. In her judgment, the issue would be suited to an evaluative review because it was well-defined.

Senator Sweeney said that in a HUD situation, they must calculate the fair market rent and include the difference in the salary of the employee. He said he was surprised that it was not the same in these situations, because he thought it was an IRS requirement.

Senator Reents moved to do an evaluative review of state-owned housing in all agencies. Representative Gurnsey seconded the motion.

In discussion, Senator Sweeney mentioned housing owned by the State Police or Department of Transportation. Representative Gurnsey said they had appropriated too much money to the Department of Transportation to build a house at Riddle for an employee.

The motion passed unanimously by voice vote.

Administrative Hearing Officers

Ms. Van Maren said that a state employee had brought concerns about the current organization of Administrative Hearing Officers to her attention.

Administrative hearing officers are persons appointed to hear contested cases on behalf of state agencies. They were used by several agencies, as either agency employees or contractors hired by the agency. Being employed by the agency created the appearance of non-independence from the agency's perspective in a ruling, and contracted hearing officers were often attorneys paid a high hourly fee.

Co-chair Newcomb said the issue of whether someone got a fair hearing was a legitimate question. Senator Reents said she thought they needed more information before they selected the topic for a performance evaluation and wondered if a background paper would be appropriate.

Ms. Van Maren said that a background paper may not provide more information because not much more was known. Costs for hearing officers were embedded in agency's budgets; it would likely take a performance evaluation to get through data constraints. Senator Reents said there was not enough information to know whether to ask for a performance evaluation. Co-chair Newcomb said the committee could invite knowledgeable sources in if necessary.

Ms. Van Maren said the OPE could put more information together and mail it to the committee for a meeting this summer. Co-chair Newcomb suggested that the information be mailed to the committee members and a decision could be made over the phone or by mail vote.

Representative Gurnsey said the greatest potential for cost savings was related to the "tax gap:" the amount of taxes owed that the state had not been able to collect. The gap was \$90 million when she last looked at it, and had probably grown since. She said OPE staff could look at the gap, how long it had been owed, why, and suggest actions to collect the money.

Ms. Van Maren said that if the committee were interested in background papers on hearing officers and the tax gap, then they could be provided in July by mail. If a decision was made for a full evaluation on one, the scope would be determined as necessary to ensure a release the first week of January.

Co-chair Newcomb said another potential topic was the money being spent on computers and software in the state. Representative Gurnsey said that a task force had been assigned to address this issue. Representative Alexander suggested waiting two years to see if any good was done.

Senator Reents moved that "background studies" be prepared on both the administrative hearing officers and the tax gap, to be mailed to committee member homes late June or early July. A decision by mail or phone would be made to determine which one becomes a performance evaluation.

Senator Ipsen said a listing of state-owned assets and non-profits within the state were two other potential topics. He said that JLOC needed to release a performance evaluation of sizable cost savings. Representative Gurnsey said the tax gap study would do this. The report could look at different methods to collect delinquent funds. Co-chair Newcomb said the report could examine the length of time money had been owed. He said that it had not been popular with the taxpayers to hire additional auditors at the State Tax Commission. Representative Gurnsey said the taxpayers needed to know the state was tough on tax collections and did pursue delinquent accounts.

Senator Reents asked if OPE would be able to scope the study on the administrative hearing officers and also do a background paper on the tax gap. Ms. Van Maren said that if the committee was interested in a scoping of the administrative hearing officer issue and a

background paper on the tax gap, this could be done for the summer. The scope of either would be influenced by the need to release the evaluation by January to be of use to the Legislature. She hoped the two new individuals would be hired in late June, but they would have much to learn in the first six months.

Representative Gurnsey said the state paid more than was necessary in the health and accident insurance area. Senator Ipsen said the state had duplication on the fringe benefits, and there was money to be saved. Representative Alexander said there had been a move between entities to coordinate short and long-term disability. Senator Reents said the defined benefit plans should be a focus of the Senate and House Human Resource Committees, rather than OPE. Senator Sweeney said it would require detailed staff work, and the interim committees did not have those staff resources. Senator Reents suggested using Personnel Commission staff.

Representative Gurnsey said she would like the tax gap study to also examine the issue of having four full-time tax commissioners of equal clout. She raised the question whether four full-time policy-making and managerial commissioners were necessary or whether they were needed primarily to act as an advisory body.

Co-chair Newcomb said they needed a vote on the last motion. Another committee member suggested the motion include Representative Gurnsey's recommendation to look at the need for four tax commissioners.

The motion passed unanimously by voice vote.

COMMITTEE MATTERS

Ms. Van Maren reviewed the changes to the committee rules, amended to reflect the changes in the law. The last page contained new information that addressed the follow-up of reports as committee members had suggested at the February meeting. Options included referral to germane committees, requesting agency follow-up, or asking the agency for an oral follow-up report. The committee could also consider having the co-chairs send a letter to the evaluated agency asking for a ninety day progress report on the implementation of report recommendations.

Senator Sweeney said he did not want to put OPE in a position to enforce compliance with its recommendations. That should come from the Legislature. Further, OPE recommendations should not be the evaluated agency's only alternative. Representative Gurnsey said the most important part of the evaluation was the follow-up. Senator Sweeney agreed and said the follow-up needed to come from JLOC, and not from OPE. Representative Gurnsey said that the director's role was to keep the committee members informed and remind them to follow-up.

Senator Reents said the committee should send a letter from the co-chairs to the evaluated agency after the release of a report asking for a progress report by a specified date. For example, on the contracted versus district-owned report, the progress report could be received early

September, mailed to committee members, and then referred to in germane committee briefings early in the Session.

Senator Sweeney repeated that it was important that Ms. Van Maren make agency contacts "doing the bidding of the committee," rather than to enforce her own report recommendations. Conunittee members voiced agreement.

Senator Sweeney moved to adopt the committee rules as shown, and Senator Reents seconded the motion. The motion passed unanimously by voice vote.

OPE PROGRESS REPORT

Ms. Van Maren reviewed the progress of OPE. She said the staff had released difficult reports and dealt with "tricky issues" working with agency heads. The diversity of requests and expectations were challenging, and gave them opportunity to be innovative. There was no reason to believe the reliance on some LSO staff for assistance would change under a separate budget program.

Ms. Van Maren said her priorities were to release reports at the beginning of Session when they were most useful to the Legislature. In addition, she was structuring staff so that Mr. Gostas and Mr. Medenblik could take on project management responsibilities. In filling the two new positions, she was looking for a quantitative individual that could do statistical analysis and help manage computer/software needs. At present, she hoped the second position would be able to support a diversity of ongoing projects. In response to committee questions, she said funds to hire these individuals should be adequate. It would be tighter if she found two highly qualified and experienced staff.

Representative Gurnsey said that OPE could consider using Dean VanEngelen for contract work. He was interested and experienced.

Returning to topic selection, Senator Reents said that with the time available, it was almost impossible to thoroughly address each of the topics for selection. She asked how the committee should handle the topics from the legislative survey. Ms. Van Maren said that topics from the legislative survey last year had been referred to the Legislative Services Office. She said this arrangement had been difficult, as it was seen as JLOC giving work to other legislative staff. Representative Gurnsey said that the co-chairs should ask for the cooperation of LSO, not Ms. Van Maren.

Senator Reents said LSO could answer the questions that were straightforward, and difficult questions could be more closely examined at a JLOC meeting in the fall. Senator Sweeney said the Legislative Council was scheduled to meet October 17 and JLOC could schedule a meeting the day before or after. Senator Reents said there may be better discussion about topic selection from committee members when the meeting did not involve a big report release. She said that a letter could be written to the Legislators who submitted potential topics, explaining that the committee was still examining their suggestions. Ms. Van Maren asked if the committee wanted

to identify which of the topics to refer to LSO. Representative Gurnsey said instead, they should take the list to Jeff Youtz and Larry Kirk and ask them on which subjects they could provide further information. Other committee members said the letter should go to the Director of LSO.

Co-chair Newcomb adjourned the meeting at 4:45 p.m.