

Minutes of the Joint Legislative Oversight Committee

December 6, 1996

Room 426, Statehouse

Boise, Idaho

The meeting was called to order at 2:10 p.m. by Co-chair Representative Newcomb. Members present were Senators Bruce Sweeney, Atwell Parry, Grant Ipsen, and Lin Whitworth, and Representative Geddes. Staff members present were Nancy Van Maren, Dan Kern, Beth Harris, Julie Cheever, and Margaret Campbell.

Co-chair Newcomb opened the meeting with a review of the minutes. **Senator Parry moved to approve the minutes of the last meeting and Senator Sweeney seconded the motion. The motion passed unanimously by voice vote.**

Co-chair Newcomb welcomed Senator Whitworth and Representative Geddes as new members of the committee.

REPORT RELEASE: *ESTIMATING AND REDUCING THE TAX GAP IN IDAHO*

Ms. Van Maren said the Joint Legislative Oversight Committee requested an evaluation of the tax gap, the difference between taxes owed and taxes paid in Idaho, at the July 10 meeting. Staff began the evaluation in August. She reviewed the findings and recommendations of the *Estimating and Reducing the Tax Gap in Idaho* performance evaluation.

Representatives Alexander and Judd joined the committee meeting.

The committee questioned Ms. Van Maren regarding the tax gap estimates and the report's findings as to how to improve collections. Representative Newcomb asked for clarification regarding Finding VII, that the Tax Commission did not keep track of discretionary adjustments to the deficiencies taxpayers had been determined to owe. He asked if OPE staff could account for the difference in adjustment rates between Idaho corporations and multi-state corporations. Ms. Van Maren said OPE had not examined individual cases but felt the adjustments should be recorded both to track auditor performance (in the event that adjustments were made due to auditor error or missing information) and provide assurances to the public regarding the administration of tax policy. OPE had accounted for variation in corporation income tax revenues and sales tax revenues by averaging each over three years.

The committee asked if there were data to support management by an executive director rather than the commissioners. Ms. Van Maren said a commission helps to balance the power inherent

in overseeing a revenue collection agency. However, a part-time commission may also be able to provide balance, with a full-time director assuming the administrative responsibilities. Each of Idaho state revenue agencies OPE had interviewed employed an executive director, while half had an outside commission for policy issues. Cost-savings likely would be minimal if the Idaho's agency governance structure were changed, in part because current commissioner salaries were low relative to those in other states.

Co-chair Newcomb invited Commissioner Coleen Grant, representing the Tax Commission, to respond to the report findings. Commissioner Grant took the floor. She said that overall, the Tax Commission tried to maintain a balance between equity and fairness in the tax system. Ninety-seven percent of revenues collected were voluntarily remitted. She emphasized that the Tax Commission had to maintain a careful balance between education and enforcement.

The committee asked why there was a lack of data for discretionary adjustments. Commissioner Grant said the data was not compiled because they felt "that maybe the information might be misleading." When an audit was concluded, the tax due was a representation of "the auditor's best work effort based on the time frame and the limitations that he or she is working under to produce a number." When "an audit deficiency is appealed, and it comes down into legal and tax policy, then the process starts where you can get on with the business of determining what actually is being assessed . . . the amount that is owed by law."

Senator Parry asked if taxpayers ever pay the calculated tax due without appealing for a true figure. Commissioner Grant said she did not "recall an instance of that happening." The majority of cases were appealed. Mr. Phil Aldape said the differences in adjustments were "primarily fact-based, that is where the taxpayer comes in and provides additional information that he hasn't given the auditor, either because he didn't have it at the time, or because he wasn't willing to provide it to the auditor at the time of the audit." He said many of the laws were complex, and appeals may relate to questions that were unclear.

In reply to a question by Senator Sweeney, Commissioner Grant said there was a large dollar amount that could be collected through additional discovery efforts, and the process was less time-consuming than a comprehensive audit. However, if audit emphasis decreased, she was concerned that there would be a detrimental effect on voluntary compliance. Committee members said they had more empathy for taxpayers who voluntarily complied than for those who willingly flaunt the system. Representative Alexander said he wanted to have appropriate enforcement for those who do not comply.

Representative Alexander moved to accept the report and Senator Ipsen seconded the motion. The motion passed unanimously by voice vote.

Senator Sweeney moved to send the report to the corresponding germane committees in the Senate and House. Senator Parry seconded the motion, and the motion passed unanimously by voice vote.

REPORT ON WORK GROUP ON PUPIL TRANSPORTATION FUNDING

Ms. Beth Harris, Performance Evaluator, said JLOC had created a work group (Dr. Fox, Senate and House Education Committee Chairs, Superintendent representative) in May 1996 as a follow-up to the four pupil transportation reports. The committee had requested the work group determine ways to encourage efficiency and increase district accountability for state funds. The work group decided to focus on the funding mechanism. She summarized information the work group considered and their analysis of the information. After several meetings and reviewing many analyses, the work group decided not to propose any changes to the pupil transportation funding model. The group had developed recommendations to the State Department of Education, however, as included in the report provided.

Dr. Anne C. Fox, Superintendent of Public Instruction, responded to Senator Sweeney's question as to whether any incentives were in place to encourage efficiency. Superintendent Fox said she thought that people wanted to do a good job, and that their efforts had paid off as witnessed by Idaho's excellent safety record. Also, in a comparison with other western states, Idaho was doing better than most; the work group could not come up with a better model than already existed.

Senator Sweeney asked how individual districts were being held accountable for efficiency. Superintendent Fox said each district had different cost variables, which made it difficult to determine efficiency. She said the Department of Education (SDE) used audits to make sure districts were reporting correctly. Mr. Eldon Nelson, Supervisor of Support Services, said he questioned districts whose costs increase from the previous year. SDE had been very tight with reimbursements. He said transportation costs increased in-line with increases in revenue to the state and increases of the public school budget.

Senator Ipsen suggested encouraging voluntary examination, asking districts questions such as why their costs had increased. Senator Parry agreed. He suggested acknowledging those districts that had done a good job keeping costs down. The committee took no action on this suggestion. Ms. Van Maren said the difficulty was in determining efficiency, except on performance relative to peers. The OPE was preparing an independent letter to the committee on issues related to the work group. It would describe the results of some in-depth analysis of district costs. Eight districts consistently exceeded 120% of the state average costs.

REPORT: IMPLEMENTATION OF PUPIL TRANSPORTATION REPORT RECOMMENDATIONS

Safety Busing

Superintendent Fox distributed a handout of SDE responses to OPE's pupil transportation recommendations. She said there were two different views regarding oversight of safety busing. The State Board of Education saw safety busing as a local decision, and the Oversight Committee wanted to "crack down" on safety busing and "see if you could save money in that area." SDE had made adjustments based on some recommendations. For example, a manual

was provided to the districts for minimum requirements that must be met and approved by SDE for safety busing.

Contract Oversight

Superintendent Fox said the SDE had contacted the districts that were not in compliance with their contracts. All problems had been corrected. The Office of the Attorney General will review each contract as it comes in, and districts will be notified by the SDE if they are not in compliance. She said the Oversight Committee had requested that a clause be placed in the model contract allowing for an audit function. The SDE had discussed this at length with districts and contractors and had inserted a clause they felt would be satisfactory.

Senator Sweeney asked Superintendent Fox how far contractors should be able to go without someone being able to determine whether they were charging the right amount. When a contract was paid from state funds, there should be audit capabilities. Superintendent Fox said the audit of a contractors' records was a privacy issue and could effect the competitive bidding process. The committee discussed that the lack of competition in some districts may result in higher costs. Mr. Nelson said competition in the state was growing, which was driving costs down. School boards make the final decision on submitted bids, and the state pays 85% of the costs as determined in the contract. If the local school district had audit capabilities, the SDE could request information from the school district. This method would preserve local control at the district level and still give the state access to information.

Representative Alexander said that it was understandable for contractors to resist an audit clause. However, even companies in the business of making a profit have an audit function. Audits made good business sense and would ensure that ineligible costs were not hidden in the reimbursement.

Bus Routing Software

Superintendent Fox said the department felt it was important to move ahead with technology, and provide in-service training to district transportation directors. It took training and time to gain the skills necessary to make computer software cost-effective. The department would continue to reimburse for software, but for routing-related aspects of the software. The department had not requested funding to develop a statewide routing system, however. Committee members discussed the findings leading to the recommendation, which were: 1) other states using statewide routing software had not realized a cost savings, and 2) districts in Idaho that had purchased routing software were currently not using it or had not realized any cost savings. Most Idaho school districts were found to not be suited to benefit from this software.

Contracted Versus District-Operated Pupil Transportation

Superintendent Fox said SDE had made a few changes. The work group had looked at the contracting issues and had decided to recommend no change to the current funding formula.

Co-chair Newcomb told the committee that the State Board of Education would be considering report recommendations mostly pertaining to safety busing at the meeting in January. After Ms. Van Maren's presentation to the State Board in November, other report recommendations were

referred to the chair of the Legislative Affairs Sub-committee, Curtis Eaton. The committee discussed further steps and decided to wait for the Board's action before taking additional steps.

RELEASE OF BACKGROUND PAPER: *PARENTAL AND PUBLIC ASSISTANCE PAYMENTS FOR JUVENILE DETENTION COSTS*

Ms. Julie Cheever, Performance Evaluator, presented background information on parental and public assistance payments for juvenile detention costs.

Senator Parry asked why parents were not paying some part of the juvenile detention costs. Ms. Cheever said the Director of Juvenile Corrections, Michael Johnson, had indicated that the law was new, and judges may not be comfortable holding parents accountable.

Representative Geddes asked if there was anything in Idaho Code that allowed for collections to be transferred into the detention fund. Ms. Cheever said there was nothing in Code under the juvenile corrections section that says payment must go back to support a cost.

Senator Ipsen asked why it cost more to house juveniles than it did to incarcerate adults. Co-chair Newcomb invited Michael Johnson to speak. Director Johnson said costs were higher because juveniles were, by law, provided many services not required for prisoners in adult status. Since it was required to provide education, Juvenile Corrections had asked the Attorney General's office for an opinion on whether the department qualified for education dollars.

Senator Sweeney asked why judges were not collecting fees. Director Johnson said that there were problems with who would collect the money and the potential increase in court load for contempt of court if parents did not pay the fees. Counties always needed revenue, so many put the fee revenue wherever needed. Courts were hesitant to enforce a user fee that would take resources to collect, with no guarantees that the money would come back to them.

Director Johnson said there could only be one agency in any state that could receive IV-E money for the care of children: while Health and Welfare could, Juvenile Corrections could not. Senator Parry asked if legislation was necessary to require that Juvenile Corrections receive the money now going to Health and Welfare for the kids. Director Johnson said Juvenile Corrections should not be named the agency, because then they would be responsible for all the other children getting IV-E monies. He said that in surrounding states, IV-E and IV-A monies were shared with Juvenile Corrections and Health and Welfare. He said he was in the process of trying to develop this in Idaho.

Senator Whitworth asked Director Johnson why the juvenile center in Rexburg had been closed. Director Johnson reported that the number of juveniles needing placements had declined from 579 a year ago to 461 currently due to successes in programs. The plan was to close the Rexburg facility because St. Anthony was available only 13 miles away.

REVIEW OF OTHER REQUESTED EVALUATIONS

Ms. Van Maren presented background information on non-profit use of state facilities. The issue had arisen when OPE was told about the Bishop's House in Boise. The Bishop's House was owned by the Historic Society, sat on Land Board land, and was leased to a non-profit for use. Representative Geddes asked what the financial impact of this study would be. Ms. Van Maren said OPE was uncertain, because the other situations that would be included were largely unknown. Regarding just Bishop's House, OPE would have to do the evaluation to calculate the impact.

Senator Sweeney moved to do an evaluation of non-profit use of state facilities. Representative Geddes seconded the motion. The motion passed unanimously by voice vote.

The committee briefly discussed other topics. **Representative Alexander moved to do an evaluation of parental and public assistance payments for juvenile detention costs.** Senator Parry said he thought this evaluation might be somewhat premature. The motion did not receive a second.

Senator Ipsen moved to do an evaluation of administrative hearing officers. Senator Parry seconded the motion, and the motion passed unanimously by voice vote.

The committee discussed child care services at state colleges and universities. Representative Judd said that all students should not be required to subsidize the child care costs of a few. Senator Ipsen was concerned that private child care centers may be impacted by the services universities provided.

Representative Geddes asked if the committee had a system of prioritizing topics considered for evaluation. Ms. Van Maren said that she kept a list for the committee, but that the committee selected only the number of evaluations OPE could work on at any time, in order to stay current on what the Legislature most wanted. Senator Sweeney said it had been a challenge for the committee to have enough time to review all the requests for evaluation that were brought forward.

Senator Parry moved that OPE provide scoping papers on the remaining issues for JLOC to consider at a meeting early in the session, and, that JLOC place selected topics on hold until decisions were made at the next meeting. Senator Sweeney seconded the motion, and the motion passed unanimously by voice vote.

The meeting adjourned at 5:40 p.m.