



**Idaho State Board of Land Commissioners  
Reinvestment Subcommittee**

Brad Little, Governor and Chair  
Lawrence G. Wasden, Attorney General  
Irving Littman

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Final Minutes  
Reinvestment Subcommittee  
November 13, 2019

The Land Board Reinvestment Subcommittee meeting was held on Wednesday, November 13, 2019, in the State Capitol, Hearing Room EW40, Lower Level, East Wing, 700 W. Jefferson St., Boise, Idaho. The meeting began at 3:00 p.m. Governor Brad Little presided. The following members were in attendance:

Attorney General Lawrence Wasden  
Mr. Irving Littman

For the record, all subcommittee members were present.

**Governor Little:** There's a sign-up sheet at the back of the room; for the most part, we're going to have public testimony at the end. I do have one legislator that I think is going to be here; Representative Boyle asked if she could speak early, and we said okay. With that, the Reinvestment Subcommittee will come to order. We have the consent agenda. The two items on the consent agenda are the approval of the minutes of July 19, 2019 and October 10, 2019.

**Attorney General Wasden:** Governor, I move adoption and approval of the consent agenda.

**Mr. Littman:** Second.

**Governor Little:** It's been moved and seconded that we approve the consent agenda. All in favor say aye.

**All:** Aye.

**Governor Little:** Opposed nay. The ayes have it. The consent agenda has been adopted. That will be the only vote we will make but we did a really good job on that one [laughter]. The next item is a discussion from the Attorney General's Office. Mr. Early.

**Mr. Darrell Early:** Governor Little, members of the committee, my name is Darrell Early, Division Chief of the Natural Resources Division of the Office of the Attorney General. At the conclusion of our meeting in October, you had left me with two tasks. I wanted to start by addressing those two issues and then open it up for any further questions you may have of me. The first issue was a request by Mr. Littman for an explanation of the restrictions upon the Board's ability to dispose of land. I've prepared a memo and in that memo I've outlined and cited to the relevant authorities. Just briefly to summarize, obviously there's the public auction requirement that is applicable. Sales must be for the long-term financial return to the institution. It cannot be sold for less than appraised price. There is a 100-sections per year limit on how many acres of land can be disposed of; that equates to about 64,000 acres per year. They cannot be sold more than 320 acres to any one individual company or corporation. If the state is going to exchange land, it must be for equal value. So those are all

embodied in the constitution. There are a couple of other provisions out there in code that are applicable. There's a provision that says you cannot sell lands to anyone other than a citizen of the United States, or those who have declared an intent to become such. There's procedural restrictions on how they're sold. They must be advertised for four weeks in a weekly newspaper stating the minimum price below which no bid will be accepted. There's a procedural provision in 58-313(a) that requires that any time there's going to be a sale of lands there must be notice provided to the county commissioners. The county commissioners have 60 days to object, at which point if there's an objection filed, there's procedure in front of the Board to reconsider the sale. The sale is subject to judicial review. If the objection is brought forward, they can petition for judicial review. The standard review is arbitrary, erroneous, or capricious. Now interestingly enough, there are a number of cases dating back on the issue of the judicial review of the Land Board's land management activities. There's pretty strong authority out there from the Idaho Supreme Court that decisions the Land Board regarding the disposition of its land are not reviewable. The fact that the legislature has made this provision in the code may not necessarily mean that there's any meaningful review by the Idaho Supreme Court because they basically said the constitution vests these decisions with the Land Board and they're not really subject to judicial review. There's a little bit of a conflict in that. There is the restriction on forest lands in Idaho Code § 58-133 which provides that lands chiefly valuable for forestry, reforestation, recreation, watershed protection are reserved from sale and set aside as state forests. There's provisions relating again to the exchanges the state has.

**Attorney General Wasden:** Darrell, regarding Idaho Code § 58-133(1), it would appear to me that if it was in the best interest of the beneficiaries to sell forest land, that it was obtaining them in the process of obtaining the maximum long-term financial return that that provision would violate the fiduciary responsibility of the Land Board to obtain the maximum long-term return. I guess there's a question in my mind about whether that code section would be sustained on a constitutional basis. I am just interested in your thoughts on that.

**Mr. Early:** In the memorandum, there's a footnote specifically pointing out that there's a provision in the constitution that says under such...the legislature can promulgate regulations for the disposition of land, and it says under such regulation as maybe prescribed by law. There are a couple of cases in Idaho that have interpreted similar language to say basically that the legislature can promulgate procedural regulations and procedural requirements that govern the constitutional duties of, for instance, the Land Board or the State Board of Education, but they cannot alter the substantive and change the substantive obligations. There's case law, at least, that would suggest that the legislature cannot by law require the Land Board to violate its fiduciary obligation or otherwise violate the requirements that the constitution imposes. It is an unresolved question in this state, as it relates to that particular provision and until a court tests that, and until a court gives an opinion on that, it is an unanswered question whether or not that particular code provision would or would not violate the Idaho Constitutional requirements and whether the court would interpret this language in Article IX Section 8, under such regulation as maybe prescribed by law, to be limited solely to the procedural regulation of the Board's activities as opposed to substantive regulation of the Board's activities. Again, it is cited as a footnote, there's authority in the footnote to that effect.

**Attorney General Wasden:** A follow up question to that, just pointing out, in Idaho Code § 58-313(1) in statutory limitations, (b) says must be advertised for 4 weeks in a weekly newspaper. It seems to me that that would be a procedural matter that would clearly fit within the confines of what the legislature could do, but then there are the other extreme, it's sort of a continuum here, another extreme where in fact placing limitations may violate the fiduciary responsibility.

**Mr. Early:** And in fact, the Idaho legislature has put provisions on the Land Board's activities, as you well know, that the Idaho Supreme court has ruled are violation of the constitution. They have not, in that process, really directly addressed that question of how far can you go and what, but for example the preferential right of renewal on leasing was deemed to be a violation of the constitutional public auction requirements. There's certainly precedent even in the context of the Land Board to say that the legislature cannot modify certain constitutional issues.

**Governor Little:** Darrell, you brought this up, can the Land Board entertain an exchange for 65,000 acres of forest ground?

**Mr. Early:** I believe they could. The constitution specifically allows for exchanges of land so long as they are of equal value. In that case, the limitation on disposition may not apply because it's not a loss of lands. That limitation appears to be governed at the sale of lands not necessarily on exchange of lands. Again, that would be something that we would have to evaluate a little bit more closely. I hadn't really thought of whether that would apply.

**Governor Little:** Boise Towne Square Mall for 65,000 acres of forest ground.

**Mr. Early:** If you want to get in the mall business...

**Governor Little:** No, I don't...strike that from the record.

**Mr. Early:** Yes, the constitution clearly envisions exchanges of land. When it was originally enacted, the constitution only allowed for exchanges between the state and the general government in the United States. It was subsequently amended in 1982 to allow for exchanges with corporations, companies and individuals; because an exchange doesn't represent necessarily a net loss of land, per se, it might not be considered subject to the 64,000-acre limit. We will look at that if that ever comes up.

**Attorney General Wasden:** I just want to make sure the record reflects that I did not make any reference to the Towne Square Mall, I just wanted to make sure you knew that.

**Governor Little:** Okay.

**Mr. Early:** Moving on to the other question that you've specifically asked, Governor, whether or not the 1982 constitutional amendment to Article IX, Section 8 where the legislature and the people of the state of Idaho added the language about secure the maximum long-term financial return, whether that changed any of the analysis that I had presented to you about older case law, etc.

So in the memo, I tried to address that in two ways. First, just from a textual and case law present a fact, the language clearly changes. Prior to the amendment, the language read "to secure the maximum possible amount therefore." After the amendment, the language clearly changed and said, "to secure the maximum long-term financial return." So just on a purely textual basis, it clearly purports to change the standard that was applicable. Indeed, the constitutional amendment based upon what I've been able to discern from legislative history I can find, there was some desire to make that change so that there would be a difference in how the Land Board exercised its discretion. However, it's also clear that even prior to the change in the constitution, the Land Board in certain cases, had exercised its discretion to award bids potentially for a lower value if they saw a long-term benefit to the rest of the endowment. Specifically, the Barber Lumber case, that comes out in 1914 and is cited in the memo. That was a case where it was a timber sale. The bidder who bid the most, bid \$101,000. The second bidder bid \$100,000, but he also offered to build a short line railroad up to the lands that were going to be logged. The Board awarded, in part, the timber sale to the lower bidder, in the sense of lower cash bid, because of the increased value to the rest of the endowment lands that

the short-line railroad was going to bring, in addition to other factors, like tax, etc. which as I mentioned in my presentation last time under the Watershed cases today probably wouldn't be allowed to consider that. But they did at the time. So in any event, it appears that even back in the day under the prior language of the constitution, there were instances where the Board exercised its discretion in the management of it and the court affirmed a standard that was perhaps different than that immediate cash value in hand. So the question comes up, does it really change it or did it really just clarify the law in a way. When I looked more into the legislative history, when the amendment was proposed to the people of the state, the statements both for and against suggest perhaps that it was really just codifying the already existing practice of the Land Board. So for example, the statements for the proposed amendment says this amendment will formally spell out in the state constitution a management practice that the State Board of Land Commissioners uses in managing the state's endowment lands – suggesting perhaps that this was just indicating codifying or making formal what was already the practice of the Land Board. The legislative statements against said this proposed amendment is unnecessary as the State Board of Land Commissioners now administers the state endowment lands in a manner that will secure the maximum long-term financial return to the institution. So again, both the for and the con people were saying we don't need this necessarily, it's just going to maybe clarify the law. The upshot of this is that in answer to your question, which is does the amendment really change the case law or the analysis, my assessment is no, it does not. The Board has always had the ability to look at and has indeed, in the past, looked at the long-term financial returns to the endowments as it looks at potential dispositions of property.

**Governor Little:** I don't disagree. I was there when we drafted that amendment and I think a lot of the reason they put it in there was because some things wouldn't get across the hurdle of the Department as a proposal because of that language. The long-term was inserted in there to where there were more options because some of the options...at that point in time, I was very involved with livestock grazing industry and we were right there at the get go at inserting this because some of the things that were trying to get done, they were the literal \$1 more today, the Barber case is a good example, we're saying you can't do that because you amended to put long-term in there we can get there. I know that Burt Ravenscroft was very involved, but I was there when that amendment was put in the constitution.

**Mr. Early:** I don't have the benefit of your personal knowledge and if you would have given me a chance to take your deposition, I would have but [laughter]...I don't disagree that it certainly clarifies the law, but it doesn't really change. I guess ultimately the question was does it change the sideboards that the case law reflect are out there and it doesn't really from that standpoint.

**Governor Little:** My interpretation is it allowed more flexibility. It wasn't quite as black and white and the language in the court case was prudent business...what would be a prudent business which is part of the fundamental underpinnings of the trust doctrine...

**Mr. Early:** ...which has not changed at all as a result of that amendment or anything. All this has really done is it's given the Board the ability to focus on things clearly in the law that perhaps weren't expressly clear in the constitutional provision before, even though they perhaps had always done it that way, at least at some level. Again, to answer the question which you asked was there a change in the legal standards? Not really as it was borne out by the case law.

**Governor Little:** All right, thank you.

**Attorney General Wasden:** Governor...I just wanted to make certain that you knew I wasn't a participant in the drafting of the language in 1982, I was in law school [laughter].

**Mr. Early:** It was an interesting exercise in looking back at how that came to be and also how hard it is to find legislative history in Idaho sometimes. There was an interim committee in 1980, there was a final report and then it sort of went dark for two years. Then it sort of came back to life again in 1982. I really didn't have a lot of in between.

**Governor Little:** There was a little election in 1980 that changed some things.

**Mr. Early:** Yes and so there's a lot of stuff you sometimes want to know the answer to, but you can't find in Idaho legislative history. It's getting better.

**Governor Little:** Any further questions? Thanks, Darrell, I really appreciate it.

**Governor Little:** Is Callan?

**Ms. Renée Miller:** Sally is on the phone.

**Governor Little:** Were you going to make a specific presentation, or were you just going to answer questions?

**Ms. Sally Haskins:** Governor and members of the reinvestment subcommittee, this is Sally Haskins from Callan for the record. I did not have any specific remarks, I think that there were some questions from the past time when Janet was there and I apologize for not being at your meeting last time, and not being able to be there in person. Fire away, so to speak.

**Mr. Littman:** Sally and I had the opportunity for some conversations. She provided me with some correlation data of timberland and the financial assets showing broadly a very small negative correlation. Essentially demonstrating that there is no correlation between the returns of timberland and the principal financial assets – bonds and US equities.

**Governor Little:** Irv, is that correlation or counter-cyclical?

**Mr. Littman:** It is correlation. They tend not to move...there's no relationship between their movements. Sally, would you like to comment on that for the benefit of the group?

**Ms. Haskins:** I think it just confirms the position of timberland and the asset allocation from the fact that it does provide a ballast. This is the reason we do it, because the returns move differently than the financial assets.

**Mr. Littman:** The other issue we talked about, asked about in your absence at the last meeting, and have talked about since then is the process and the intent, the content in your work on the hurdle rate. Help us understand what that means.

**Ms. Haskins:** The process for setting the hurdle rates?

**Mr. Littman:** Yes, and how should we interpret the hurdle rate?

**Ms. Haskins:** Yes. So the process for setting the hurdle rate is...first of all we do it annually. We look at our capital markets assumptions, we also look at the long term projected returns for financial assets, and then land assets including timberland; we look at the market conditions at that point in time; we consult with IDL to see what they're seeing on the ground and that's really the process for setting the hurdle rate. The hurdle rate, I want to make clear, is different from the long-term policy target. The long-term policy target is what you would expect the portfolio to return over the long term. For

example, timberland; in your investment policy statement timber has a 3% net real long-term policy objective. Now the hurdle rate, on the other hand, is the rate of return that is required for new investments.

**Governor Little:** Just real quick, it is 3.5 isn't it?

**Ms. Haskins:** Yes, that's correct 3.5. I can't tell who was speaking, I apologize...

**Governor Little:** This is Governor Little, but today's hurdle rate is 3.5.

**Ms. Haskins:** Correct. The hurdle rate today for timberland is 3.5 percent net real. So we like to look at everything after inflation and after all fees and costs have been factored in. You can think about that as sort of the take home pay, the take home projected investment return.

**Governor Little:** And we're using the standard of 2.25 for inflation and 100 basis points for all costs, is that correct?

**Ms. Haskins:** Well, if you want to convert it to a nominal, you could use the 2.25 inflation and then you can tack on 1%, but that's not really...I like to look at the net real. That's the take home and that is what IDL has been looking at as well. Reading through some of Mr. Groeschl's comments from the last time in how the underwriting has been done. That's what they're trying to meet and that's what they've been underwriting to, so that's appropriate. We're coming up on the time when we do our capital markets assumptions, we're in the process of setting those now and then we discuss those with clients and figure how it impacts the long-term projected returns for their portfolio. So in the first quarter we would looking again at the long-term policy objectives and the hurdle rates as well.

**Governor Little:** Does that 3.5% hurdle rate consider all the fire costs and the prohibition on selling timberland?

**Ms. Haskins:** Yes, it does.

**Governor Little:** I would argue with that but go ahead.

**Ms. Haskins:** To the extent that you have to pay for...on the first or second question about the prohibition on selling, it's been my understanding in setting the hurdle rate that for timberland the entire return basically comes from income. You don't factor in any appreciation...

**Governor Little:** I would agree there. That's using what we're calling the land expectation value methodology not fair market value, is that...

**Ms. Haskins:** Correct.

**Governor Little:** Okay.

**Ms. Haskins:** On the suppression costs, I don't know how those get factored in, but I guess my overall point is if you have to pay for that, and if it is a cost of management, then it should be factored into the return calculation or deducted. I don't know whether it has or not because I have not audited or done anything to actually look at how that's been factored in.

**Governor Little:** There's two different...there's the 60 cents an acre that private landowner or the state pays to the timber protective association, or whoever it is; but then there's the overarching fire costs which are actually a policy of the state legislature where...that applies to everything. But this year we were very blessed that we had a low cost, but some years we're not quite as fortunate. The question is do you tie that on to the cost of owning the land and that's a very high-level policy decision. If you don't pay for it for state timber, then what do you do about everything else? We've cooperative

agreements with the Forest Service and the BLM. Until this year, given the escalation there, I still think that from a policy standpoint, the fire costs ought to be looked at.

One other thing that I had was...in Callan's previous...they basically said that if you moved the reserves for public schools to 600% and charitable to 700% that would be enough buffer that the rest of the...in the 2018 Callan report that then you would put all of the money in financial assets, were you part of that report, Sally?

**Ms. Haskins:** Yes.

**Governor Little:** Has anything changed?

**Ms. Haskins:** Well, I think that when we did that report, we laid out various scenarios. The other subcommittee adopted option A, which is why we're continuing to think about investing in timberland and other asset types. But nothing has changed with regard to the assumptions that went into that study and our work.

**Governor Little:** Okay, other questions.

**Attorney General Wasden:** Thank you Sally, this is Lawrence Wasden. As I recall, Callan's assignment was to look at the endowment as a whole, not just the security assets but the land assets as well; to do an analysis of the entire portfolio and as a consequence made the recommendations that you did. My understanding of those recommendations, both in 2014 and 2018 reflected that whole approach; that is, that the land assets actually produced a steady level of income which allowed greater flexibility and more aggressive investing in the financial portfolio. I am wondering if that is your understanding, if that's still the case.

**Ms. Haskins:** Yes, absolutely. All of the land assets and financial assets have the same characteristics as they've had from 2014 until now; the land assets provide that ballast and that steadiness. That's why, and to your point, we do look at it on a whole trust basis. You've done well.

**Attorney General Wasden:** As a follow up Governor...if we altered the land assets, that would have an effect on the securities aspects. We would have to accommodate or account for increased risk that happens in the marketplace, correct?

**Ms. Haskins:** Correct. You can't do one thing without thinking about the whole trust and then maintaining your focus on wanting to have stable distributions, right?

**Attorney General Wasden:** Correct.

**Ms. Haskins:** Which is an objective.

**Attorney General Wasden:** So if we tinker with one part, it's going to affect something else is what you're saying, in layman's terms.

**Ms. Haskins:** Correct.

**Attorney General Wasden:** Thank you, that's all I have Governor.

**Governor Little:** I have the exact same question from a different angle. We're not talking about selling any state lands. The question is do we add \$150 million more in land to the corpus. The current balance that exists between timberlands and the financial assets is what it is, the question is that at this point in time, and this goes back to my reference to the last report – one of the things we've done is move the earnings reserve levels up to a much higher level. The question is at this junction, at this fork in the road, what do we do with the \$150 million that we've got in the land bank; and if that's

what we are and we're perfect, well you said we're good, wouldn't we want to put half in each? And that would be the right thing to do?

**Ms. Haskins:** Well, if you remember from our 2018 report, part of what you decide to do depends on where you want to be with regard to the downside scenario, in the worst case scenarios – if you want to protect against that, and it was clear that you want to do that, was where land really came into account. So I think part of it is where you want to be on that risk spectrum. I have maintained all along that this is...if you can find transactions...I come at it from more of a bottom up perspective, if you can find transactions that are truly accretive to what you already have; and it sounds like the last couple that have been done not only stood on their own, but have made the rest of the portfolio better, then that's the way to go about it. I think that's what we've tried to stress too.

**Mr. Littman:** Sally, correct me if I misspeak here. I think what Sally is saying is that's where the hurdle rate comes in. That as you consider adding individual investments, they have to be accretive, they have to be better than what you've got. That is why the hurdle rate was designed. Sally describes that the hurdle rate...this is a criteria, a threshold, she's saying it has to be done in such a way to include all costs including the fire costs and projected inflation. So if the investment is good enough and high enough, then it adds to the overall return and health of the portfolio. If it's marginal or below the hurdle rate, then it will hurt the portfolio and we should not do it. So the question really becomes of the \$150 million, how much is there within the time that we have prescribed that we can execute transactions that are individually accretive and I would ask, not barely accretive, but have enough cushion so that you know you're really adding to the portfolio. Did I say that right?

**Ms. Haskins:** Way better than I could ever say it, thank you.

**Governor Little:** Sally, this is Governor Little again. You referenced in your prior dialogue about a down market. I know Chris, under Callan's guidance, they've got tips and bonds, this is not a one-off situation. There are other asset types, timberland in Georgia...and the endowment fund is investing in real estate in other areas. Are we at a point where we have only one decision and that's the current mix that the Endowment Fund Investment Board manages and timberland, or are there other options we should look at?

**Ms. Haskins:** Well, we've set forth a hurdle rate for farmland that is relatively high. Theoretically you could consider farmland or actually if you could hit the hurdle rate, but the reason we set that relatively high is that you have less expertise there, you have a smaller portfolio in Idaho and we wanted to set it competitive with farmland returns throughout the United States because we didn't see any reason why you should take a lower return in Idaho when you could potentially be investing outside of Idaho in a nationally diversified portfolio farmland. Having said that, even if you put all of the money in farmland, it's not going to do for you because it's just not a big enough chunk of money relative to the overall pool, what I think you could achieve in timberland in Idaho. I think that aside from timberland I think it would be difficult to do farmland, it would have to be something pretty dang special to even move the needle in farmland – returns in farmland I am not convinced you would do what you could do in timberland.

**Attorney General Wasden:** Sally this is Lawrence Wasden. We step back for a moment in time: the state owned a number of parcels of land, they happen to be around Priest Lake and Payette Lake. We've sold land, and that's actually the genesis of that \$150 million is that our land portfolio went down. As a consequence of that, our risk factors went up. To accommodate for those risk factors, we increased the size of our reserves. By doing that we were leveling the playing field. The question now is what do we do with this \$150 million and in order for us to maintain that balance, we need to do

something. That is, we can purchase securities, but that is more volatile marketplace than is the land which is the whole issue I was trying to raise earlier. That it's the working of the entire portfolio together so if we were to acquire land, it may be that we could reduce the size of our reserves based upon what the relative risks were. Isn't it the entire workings of that together that we're trying to accomplish the maximum long-term return?

**Ms. Haskins:** That's correct, and you point out that there are trade-offs to anything that you do.

**Attorney General Wasden:** Correct.

**Ms. Haskins:** It's kind of all about those trade-offs and where you want to position yourself with regard to risk and downside protection. The land provides income, a very strong consistent source of income. That's kind of the beauty of it.

**Governor Little:** So the 2018 report where you said you'd get a higher return if increase your earnings reserve and left it in financial, Callan has a different opinion than they did in 2018. Did I get that right?

**Ms. Haskins:** No, I don't think we have a different opinion. I think that is still true. I am just trying to point out that we did have...in the 97th percentile from a downside perspective that if you wanted to think about that. That was where additional investment in land came in.

**Mr. Littman:** Yes, they said that here under option c; but they also said there is an option A and B and they're all legitimate options.

**Governor Little:** Okay any other questions. Thank you Sally. I have a question for Chris. I found out the earnings reserve is invested in the exact same pool as everything else.

**Mr. Chris Anton:** Governor, members of the subcommittee, yes that is correct, both the permanent fund and the earnings reserve are invested with the same investment strategy.

**Governor Little:** And literally the only difference between the dollar permanent and the dollar earnings reserve is the permanent can never be touched; and the earnings reserve you could take it out to do distributions, or do something else with...in essence the portfolio that you, Callan and your board put together is all that money's basically managed the same.

**Mr. Anton:** Yes, that is correct Governor. We did consider as part of this study whether we should invest the permanent fund differently than the earnings reserve fund. That's theoretically possible. But it was determined that keeping it invested consistently made the most sense. I can get into the details of that, but that's part of what drives having six to seven years of reserves is that the earnings reserve portfolio can be fairly volatile as well.

**Governor Little:** Let me ask a hypothetical.

**Mr. Anton:** Okay.

**Governor Little:** The most widely scribed to index is the Vanguard index, what, 8 basis points?

**Mr. Anton:** The S& P 500 is 3 basis points now.

**Governor Little:** I just looked this afternoon. Three, five and ten years it's almost 300 basis point premium over the incredible work that you've done. But it's in a different area. So if you take \$2.3 billion times 3%, that's \$60 million bucks a year; we would have an additional return if we would have just plowed it all in there. I am not, just like the Towne Square Mall, I am not advocating for that; but what I am saying are there a number of years of earnings reserve that we could put aside to compensate for just plowing it all into the SPDR, the Vanguard SPDR.

**Mr. Anton:** Governor, members of the subcommittee, we do have a substantial portion of the portfolio of the S&P 500 index. But we don't have it all invested in that because we believe diversification of non-correlated or partially correlated assets reduces the overall risk. To your point, yes if we happen to be all in the US equity market, we would have earned more over the last 10 years. But if you look at the prior 10 years we would have earned less because the S&P 500 was flat for 10 years.

**Governor Little:** Vanguard's 11% over the life of the programs.

**Mr. Anton:** Okay, different assets perform well different periods and that's why we're diversified.

**Governor Little:** But my question is can you make up for that diversity just by having more earnings reserve.

**Mr. Anton:** If you compare our portfolio to other land grant institutions, we're fairly equity intensive with 66% and we're able to do that because we have the earnings reserves. We're able to take more equity risk in the portfolio and still meet our objective of stable distributions for the beneficiaries because we have 6 or 7 years of reserves and because we have revenue coming into the reserves from the Department of Lands through timber sales. That structure is well thought out and it allows us to be fairly aggressive. Many of our peers are investing in other non-equity related investments to try to reduce volatility. They are investing in other alternatives, infrastructure and other things. So to your question to Sally, yes, we could consider other types of investments that have low risks, but we're able to take a fair amount of risk to try to maximize the returns for the beneficiaries given our structure.

**Governor Little:** Any other questions.

**Mr. Anton:** Thank you.

**Governor Little:** Dustin, are we doing the forest asset management plan now?

**Director Dustin Miller:** Governor, members of the subcommittee, Dustin Miller, Director, Idaho Department of Lands. I've also got Ryan Montoya with me who is our Real Estate Services Bureau Chief. For purposes of this meeting, much like Ms. Haskins, we were just prepared to answer questions, what questions the subcommittee might have over the lands piece, our management, our implementation of the current reinvestment strategy. So, if that's okay we can stand for questions.

**Governor Little:** Director, what's the cost per acre to administer forest land, that's all land – general fund, earnings reserve, forest ground – what's the administrative cost?

**Director Miller:** Governor, I cannot answer that right off the top of my head. I am certain we have that information; I wasn't prepared for that question – we will get that for you.

**Governor Little:** You heard me talk a little about fire. Do I have this right that state pays into a pool, into the Clearwater, Southern Idaho Timber Protective Association, 60 cents an acre; but then we also have an overarching fire cost, but this year we didn't have any fires we still have \$10-11 million. Does every state do that, where the state just picks up the fire costs?

**Director Miller:** Governor and subcommittee members, you are correct that 60 cents an acre is what the Department assesses on private timberland as well as our endowment lands and that goes into our prevention and pre-suppression funding; preparedness funding. On the suppression side, once we are engaged in initial attack, that's when the funding from the legislature kicks in through deficiency warrants. It's that \$20 million cap, so two different pots of money. One for pre-suppression and one for the suppression. I am not familiar, certainly most other states in the west, state land management

agencies do have their own fire programs. They are similar in ways, certainly different in others. I would have to dig in a little more to tell you with a high degree of certainty how different they are. But I know each state has a different approach.

**Governor Little:** Further questions.

**Mr. Littman:** Director, so you've heard the discussion and I assume that you've read ad nauseam the discussion of hurdle rates. Are you comfortable that the hurdle rate for a prospective timberland investment is calculated and analyzed in a manner consistent with what Sally describes her expectations for hurdle rate are; that is, nominal net after all costs - administrative and fire suppression, of the Governor's point?

**Director Miller:** Yes, Governor and Mr. Littman I do believe Ms. Haskins captured that accurately on how that hurdle rate is derived for our timberland assets and all the factors that go into that particular model, that particular formula.

**Mr. Littman:** And that when someone is putting a proposal together, they're doing it that way. The numbers actually reflect all of those costs.

**Director Miller:** Mr. Littman to my knowledge, yes. All of that is taken into account when understanding the hurdle rates, what return we're trying to make on our timber ground and other assets. It's a complicated formula as you well know. I believe Ms. Haskins really captured the details there.

**Mr. Littman:** My question really is everybody using the same yard stick? Sally with her hurdle rate and you and your colleagues running through the complexities of putting together a particular proposal.

**Director Miller:** Governor and Mr. Littman, that's another question I think is better addressed by others in the Department. Unfortunately, our state forester couldn't be here today and as you know he has a long history of timberland acquisitions and understands the process and these formulas in and out. Mr. Littman, we would be happy to get back to you with answers to those questions.

**Governor Little:** Director Miller, I think Dave talked about this last time; Packer 1 - are we hitting a 6 1/2% right now out of Packer 1? Are we hitting that on Packer 1 right now?

**Director Miller:** If it's all right, I might defer if Mr. Montoya can answer that question. That's a brand-new acquisition and because of that 32,000 acres that was purchased about a year ago, our sustained yield has been increased in other areas. Certainly, the harvest is going up. Mr. Montoya can answer that question better.

**Mr. Ryan Montoya:** Thank you Governor, members of the committee. I am going to go back to one of your earlier questions, Mr. Littman. That was the evaluations that we do on the timber purchases. One of the requirements when we were working with Callan initially was that the standards were commercially acceptable. What we're doing is based on what the industry has done and like the Director said, David has been in the industry for a number of times and has been extremely helpful in making sure we're following commercial standards, but also as part of the process we do provide a third party evaluation on these acquisitions to confirm that we are adhering to commercial standards and that is by hiring outside experts to review and also to help prepare these acquisitions and to do evaluation of whether or not the due diligence has been appropriately vetted. In terms of whether or not we're using appropriate methods in the industry, I would answer yes. The other question regarding the hurdle rate is that if we look at the acquisitions that we've currently completed right now, we have a range of returns for the hurdle rate of 3.98 to 5.5%. There's a weighted average, based on the

acquired acres, of 4.3% and the simple average of 4.71%. So in terms of where we align with the Packers 1 acquisition the net real return on that is really, if you've looked at the size of the purchase, around that 4.38% return.

**Governor Little:** Ryan, you don't take inflation out. You operate on – here I've invested \$100, I get \$6.5 out of it, you don't take the inflation out...do you?

**Mr. Montoya:** So we're not including inflation in the evaluation. It's the net return and that is 4.3%, that would be the net. Then we have the 2.25% inflation that you would add on top of that. So if you were to add inflation on top of that you're looking at anywhere between 6% to over a 7% return.

**Governor Little:** Okay, so your real hurdle rate is 4.5?

**Mr. Montoya:** That's what our purchases have been at, yes.

**Governor Little:** And below that, it was stated by Sally, it was stated by the Department there were inquiries from Board members about farm ground and they said that they couldn't find anything that would hit the hurdle rate. So in essence, if it is below 4.5...is that correct that you won't look at it?

**Mr. Montoya:** Governor, for the timberland we have the hurdle rate at 3.5% and then for farmland it's 4.5%. So when we're doing an evaluation of timberland we're looking to make sure that it exceeds that 3.5%, which they have. Now when we looked at the farmland, for example, we haven't had any opportunities to purchase farmland that have been able to exceed the 4.5%.

**Governor Little:** So the hurdle rate is sacred.

**Mr. Montoya:** Yes.

**Governor Little:** Other questions. All right, thank you. Have you got anything else, General?

**Attorney General Wasden:** No.

**Governor Little:** Irv? I guess have we got a list of people that want to testify? Jerry Deckard.

**Mr. Jerry Deckard:** Pass.

**Governor Little:** Is Phil here? Are you on the phone from St. Maries?

**Commissioner Phil Lampert:** Yes, Phil Lampert from St. Maries.

**Governor Little:** You've got about...how long do you think you need Phil?

**Commissioner Lampert:** Just a few minutes.

**Governor Little:** A few in Emmett is three [laughter]; I don't know what it is in St. Maries.

**Commissioner Lampert:** Well, actually I live in Plummer not St. Maries. Anyway, I was listening to your sharing today, from your committee. I didn't hear anybody talk about the negative effects of purchasing land that comes down to the county level. Right now, the Land Board has 67,421 acres in Benewah County and that costs us in taxes roughly \$325,000 per year that we don't get. If you purchase more land, then that comes off...the first thing we get from IDL is to take that off our tax rolls so that puts a shift in taxes from the land that is no longer taxable to the homeowners and other landowners. These rural counties already have a much higher tax rate than say Ada County or Kootenai County. We're running about 0.50%. The more metropolitan counties are running at about 0.30%. Your land acquisition if you want to purchase land, buy it in Washington, Alabama, or Georgia but stay away from land in Idaho, especially the five northern counties. I figured out we probably contribute to the

endowment fund a minimum every year of about \$3 million plus and our schools only get back roughly \$240,000. To me it was very frustrating listening to this whole meeting today and not one mention was made as to how negatively it affects local taxing districts, local schools especially if you buy a large...it just happened to St. Maries School District. IDL bought 13,000 acres all in one school district and now they had to run an override, so it seems like maybe the Land Board has forgotten that we don't operate in a vacuum and their actions can have some very adverse...what is very positive for you folks can have some very adverse reactions in these rural counties. You take Bonner, Boundary, Benewah, Shoshone and Clearwater and that accounts for 643,000 acres that supplies about \$28 million worth of net revenue to you folks and they only get back \$1.8 million to their schools. Going forward you need to figure out if you want to buy timberland in these rural counties, you need to factor in road maintenance, the cost of schools, and what it takes to keep those counties whole and not just take it off our tax roll. That's what I am concerned about is you folks coming into Benewah County and buying part of our county up and our taxes going through the roof to where we can't even approach levy limits and we as county commissioners cannot...we don't have enough funds to properly run the county. Thank you, Mr. Governor.

**Governor Little:** Well, Commissioner Lampert, thank you. We didn't bring it up, but the Land Board is fully aware of it. I think when I talked to you last time, I said you ought to call those guys in Bonner and Valley County that had all those cabin sites go on, those guys were mysteriously quiet in Bonner and Valley County because they had way more put on their tax roll than you had taken off, but for some reason they don't want to share with you; I am sorry about that. But we, the Land Board, I may be speaking for General Wasden, we're keenly aware of this fact. We appreciate you reminding us of it one more time.

**Attorney General Wasden:** Thank you, Governor and we are acutely aware of it.

**Commissioner Lampert:** That's the question. How are we going to remedy this?

**Governor Little:** Well, we're studying this. We haven't made a decision yet. There was that first tranche, Packer 1 and the issue is what do we do going forward. That's what we're studying. That's the recommendation this subcommittee is going to make to the Land Board.

**Commissioner Lampert:** One of your gentlemen today talked about getting the county commissioners blessings on land sales, but nobody comes and talks to us about getting blessings on land purchases in our county. That's a lot more detrimental than land sales. It's something that I picked up in listening to conversations. Anyway, thank you for letting me talk to you over the phone.

**Governor Little:** You're welcome; thanks Commissioner.

**Commissioner Lampert:** Okay, bye now.

**Governor Little:** Tim Hubbard. Is this going to be ditto?

**Mr. Tim Hubbard:** Pretty much. Thank you, Governor, members of the subcommittee for the opportunity to come to comment today. This will be a bit of a repeat from what you just heard from Commissioner Lampert, but I do want to drudge up some of this again.

**Governor Little:** Did you state that you represent the Idaho Association of Counties?

**Mr. Hubbard:** I did not, but I will. I am Tim Hubbard and I represent the Idaho Association of Counties, thank you Governor. This is going to be a little bit of a repeat of what you just heard, but I do want to come at it with a little bit of a different angle. A lot of numbers have been thrown around today and

when I hear these big numbers my eyes kind of gloss over. So I want to go over a simple example. When the Land Board does purchase private land in Idaho, it does have a negative financial impact on Idaho property taxpayers, especially in those rural counties that have large amounts of tax-exempt land and few taxpayers. Because Idaho has a budget driven system, when that taxable land is removed from the tax rolls, it creates a tax shift on the remaining property taxpayers. For example, if you have a county with a budget of \$100 and 5 property taxpayers, each property taxpayer is responsible for \$20 of that budget. For example, when the federal government purchases a parcel of land, they will provide PILT moneys to offset that loss in taxes. So the property tax dollars of those remaining property taxpayers doesn't necessarily have to increase. But when the Land Board purchases lands, they're constitutionally mandated that they are not able to provide some offset to help the property taxpayers. Now there are four property taxpayers remaining in that county and those property taxpayers' portion of that \$100 budget goes from \$20 to \$25 each. So that's the issue that counties are having, it's further compounded in those rural counties that have negative population growth. So if you look at the sheet that I just handed out to you that's in front of you, you can see this is clear. In Clearwater County, Shoshone, and Benewah are the counties that are having significant population growth. They also have very small populations. The percent of public lands in their counties is very high. One thing I would note here, is that in Benewah County the percent of public land here does not include tribal lands. Benewah County has a lot of tribal lands so this number looks lower than it should be. These counties are very heavily impacted with population decreasing naturally and then with the State Land Board purchasing land, it is also decreasing artificially. For this purpose, the Idaho Association of Counties has a policy position that the State Land Board invests the land bank funds into the permanent fund rather than for the purchase of replacement endowment lands. Furthermore, as Commissioner Lampert did mention, they would like the Land Board to come in and talk to them to discuss any purchases that the Land Board would like to purchase in their county. This is merely a courtesy that the Land Board would be making to the commissioners that would go a long way in increasing the cooperation and transparency with the counties. With that, I would stand for any questions.

**Governor Little:** Questions. All right, thank you. Braden Jensen.

**Mr. Jensen:** Thank you, Governor Little and members of the subcommittee, my name is Braden Jensen on behalf of the Idaho Farm Bureau Federation. On behalf of our 81,000 member families, I would just like to stand and reiterate our opposition to the Land Board purchasing additional farmland and timberland. I think many of the points that I plan to make have already been discussed thus far. But I would like to restate some of those through my comments. First of all, the Idaho Farm Bureau does have a policy that supports a no net loss of private property. Our members are anxious to protect private property, particularly since it represents only about 30% of the land mass in the state. Farm Bureau does not believe that it's in the best interest of our economy and our citizens to further erode the small amount of private property that exists in the state. The proceeds from the sale from the cottage sites and other property should be placed in the permanent fund as was expected since the inception of our state. I would refer you to the comments that have been submitted earlier this year in March to the Land Board for more of those specifics. Our members do not believe that it is wise to take the money from this one land sale to reinvest back into the land for the following reasons, many of which have already been discussed. The constitutional requirements, we believe that these are restrictions that land assets make it extremely difficult to sell when and if necessary. Second, the loss of private property as it has been discussed. Obviously taking those lands off the tax rolls is of significant concern. Also, I think we've addressed this a little bit today as far as the need of additional

investment and the resources to land resources in comparison to financial funds such as stocks, bonds, and other investment opportunities. Also, Governor Little, I think you are very wise to bring up the fact that wildfire is a risk and it is something we should definitely consider. We would urge the subcommittee to consider and the full Land Board. I think it is well documented that catastrophic fire risk does exist by both our federal and state agencies. They've recognized this. In fact, the state legislature in February of this year, held a joint resources committee meeting to talk about this fact. Of course, many of these national forests to border state and private land and of course any land that would be considered to be purchased. One other aspect that we would like to address is that while we do oppose the purchasing of any private property we would be supportive of any consideration of purchase of federal lands. I know that many might say that this might be difficult, maybe impossible. I do not disagree that it would be more difficult. I would refer you to the lands package Senate Bill 47 that was recently passed by Congress and in those first couple pages it does list out a number of land conveyances. We do recognize that many of those were for easements and trades and things like that. All we are saying is that we would love to see that investigated and our members would be much more supportive of that as well. In summary, we do believe that for the benefit of our economy and the prosperity of our citizens, we would oppose the loss of private property in the state of Idaho and ask the Board to invest the proceeds of the land sales into suitable financial instruments. Thank you very much for your time and consideration of these comments.

**Governor Little:** Thank you Braden. Questions. Jonathan Oppenheimer.

**Mr. Jonathan Oppenheimer:** Thank you Mr. Governor, members of the strategic reinvestment subcommittee. I appreciate the opportunity to testify today. My name is Jonathan Oppenheimer and I serve as the External Relations Director for the Idaho Conservation League. Since 1973 the Idaho Conservation League has worked to protect the air we breathe, the water we drink, and the lands we love; and that includes state lands managed by the Idaho Department of Lands. I would say certainly to recognize the impact of land purchases on counties and taxable lands as an important issue and one that I know that you have wrestled with and will continue to wrestle with. I know it is at the forefront of the minds of the fine folks that work at the Idaho Department of Lands. I will just say from our perspective, we see a lot of benefit in terms of acquiring lands for the benefit of Idaho taxpayers and Idaho citizens because of the important values that they provide and would point out in particular, I think you are familiar with the Packers 1 acquisition and some of the concern that that has brought up. One of the things that we did was to evaluate what were the actual acres that were acquired in those counties and what has been the amount of land that has been sold in those counties since the time of statehood. Obviously at the time of statehood there was an express deal that was made that the State of Idaho and the people of Idaho would be in the land-owning business. I think it is important to recognize that and that there were a number of lands, about 3 million acres plus across the state that were held by the people of Idaho for the beneficiaries named in the constitution and that it is important to recognize that historical precedent. About a million of those acres have been sold since the time of statehood and now as we're dealing with some of the repositioning of lands, obviously some have increased in value, in particular those residential and cabin sites creating some revenue to be used for the acquisition of lands. Obviously, the Land Board and your subcommittee will be wrestling with the issues of how to balance that between the endowment and purchases of land. But I do think it is important to recognize that there have actually been a lot more acres sold in those 5 counties in north Idaho than were acquired through that Packers 1 acquisition. Just by way of comparison, in Benewah County there were about 10,000 acres that were acquired through the Packers 1 acquisition where since the time of statehood over 27,000 have been sold. I just think it is

important to look at how those lands have been distributed across the state at the time of statehood, how they've been sold off and what is now effectively being reacquired on behalf of the beneficiaries and the citizens of the state. So again, recognize that I am sure that there will be a balance of some lands that are purchased and some dollars that go into the endowment. But I do think it's important to recognize the long-lasting value of holding lands for the trust for the people of Idaho and that they provide many other values than just that dollar value.

**Governor Little:** Thank you. Questions. Jeremy Chou.

**Ms. Miller:** Governor, sorry. Mr. Chou has a presentation and it will take just a minute to get it ready.

**Governor Little:** Okay, I am excited.

**Mr. Jeremy Chou:** Governor and members of the subcommittee, my name is Jeremy Chou; I am an attorney at Givens Pursley. I represent Stimson Lumber Company. I wanted to go through, very quickly, a PowerPoint presentation. As she is loading it, we can talk about a couple of the slides initially as it loads. My coverage will talk a little bit about your standard, your fiduciary duty and really kind of dive into a little bit more questions and analysis of the Callan studies more than anything else. With everything, we start with the Idaho Constitution, Article IX, Section 7 does say that the State Board of Land Commissioners who shall have the direction, control and disposition of the public lands of the state under such regulations that may be prescribed by law. That's your authority. Under Article IX, Section 8 – it does say to secure the maximum long-term financial return of the institution. I am going to defer to Governor Little when he was there, and drafted this language, but to me it means it's a balance, that there's flexibility, and balance. The guidance really is to paraphrase it really the most money for the longest period of time, if that makes sense. A little bit about the fiduciary duty, apologize if I am repeating what Mr. Early had already discussed, but he is correct. This fiduciary duty is subject to a clear abuse of discretion standard. What that means to me is that there is absolutely no real one answer to get to the solution. If you have a reasonable basis, or even a non-arbitrary capricious basis for your decision then you're within your fiduciary duty. I cite the same case that Mr. Early cited, Barber Lumber. In fact, when they talk about a clear abuse of discretion standard, I've heard it described as even if you're reasonably wrong, the court is not going to look into it. So that is the standard that you make, that you have with respect to these decisions. So one of the things that kind of struck me during the last presentation was Governor Little's question. During that last meeting, Governor Little asked was it Callan's recommendation that if the reserves were met the land bank money should go to permanent fund. I thought that the answer was yes. So, I actually went and looked it up. This is a copy of the Callan April 17, 2018 report. Sure enough, the document says depositing land sale proceeds into the financial asset portfolio is preferable under recommended reserve levels. Just to back up, they did recommend some increase of reserve levels and if you met that reserve level, then those proceeds, they recommend should go into financial assets. In fact, later on it says, and I am just quoting here, if you stick funds in the asset portfolio, it's easier and cheaper and compared to land transactions it, quote, requires a lot of time and due diligence to complete. That kinds of makes sense if, I am not a financial whiz, my understanding is that there's about 40% of land investments or endowment investments that's currently in land assets. In most portfolios, those lands and tangible assets about 20% and I think Mr. Littman can correct me if I am wrong, so your 40% means that you're being very conservative with respect to your holdings. The next slide really talks with respect to outstanding issues, as expected land yields move toward 4.5, land reinvestment becomes more compelling relative to the assets from a cumulative distribution perspective with assumed land yields between 3.5 and 3.4, there is a preference for financial assets if higher earnings reserve levels were

implemented. Sure enough, your higher reserves were approved on May 15, 2018. Section D says the Land Board approves the higher reserves and that's just a copy of the minutes. If you turn to the current document, October 10, 2019 that you received, I really want to focus on two points with respect to the top page that you can barely see, and I apologize for the PowerPoint, but there are documents in front of you. It does say, using a net...well there's really two points. First it says we recognize that as the financial assets have out-performed lands have grown in percent relatives to the land portfolio. It begs the question by how much. In your April 2018 report, Callan says the financial projections from 2014-2018 went down from 6.8 to 6.3%, or 50 basis points. I mean it still went up, but not as much as you would have projected in 2014. Then it said, lands income went down further, but there were more deposits because there were more sales of land. So it just begged the question how much more did your income go down with respect to your timberland within that period of time? What I did was, I went to the annual report from 2014 and if you go down to the last column, it will say in 2014 your forest land income was \$53,500,000; that's 2014. In 2018, your land income went to \$43 million. That's almost a 10% reduction. Despite the fact that if you take a look at it, in 2018 your timberland holdings, the actual acres, increased. It increased by 25,610 acres, more timberland less money. That's what happened from 2014 to 2018. With respect to Mr. Littman's comments, based on that snapshot, you are not adding to the portfolio. You're losing your money on the portfolio and you're not moving the needle on timber income. The second point that I would like to make here is that the October 2019 report, back on page 7, recognizes that using a 4.5 net real hurdle rate the study also concluded that deployment of land bank funds to the financial assets was preferable if the Land Board approved higher earnings reserve and we already know that you approved a higher earning reserve and that they would bump this higher earnings reserve. I believe it does say that if you have higher earning reserves, then the floor should be moved to about 4.5%, well that was in May, right of 2018. But in 2018 you made a significant land purchase and that land purchase was about 3% of the total land forest land holdings in terms of acres. But instead of using your 4.5 net hurdle rate, the due diligence reports indicate that you used a 3.5 net hurdle rate, despite the fact that your reserves were increased. That is just a copy of the due diligence report, one of the sales, Jackson Timberland, and you'll see in the background that it does say you've used a 3.5 hurdle rate. So those are things that kind of struck me when I went through these reports. Timberland is a good asset when it comes to market crashes. I think Callan has done a wonderful job discussing the worse of the worst-case scenario with respect to the risk spectrum when it comes to the market, they did an excellent job on that. But they didn't consider any of the worse of the worst scenarios when it comes to buying timberland. It's not in any of these reports. There are three things that really struck me as I read this: fire, the prohibition of selling timberlands once it's purchased and how that affects the hurdle rate, and what happens when there's no private industry participating in public auctions? So, what did I do? I went online, I took a look at the US Forest Service and they had a discussion about the Great Fire of 1910. It's unlikely that it's going to happen again. I think with respect to land endowment management, they've done an incredible job with fire suppression and management. With that said, that state forest land is surrounded by federal forest land. They don't do as good a job as the state does. Here's the map. In 1910, that red mark west of St. Maries, a lot of that is endowment land. A quote from the website – the Great Fire of 1910 burned 3 million acres, killed enough timber to fill a freight train 2,400 miles long, merchantable timber destroyed was estimated to be 8 billion board feet, or enough wood to build 800,000 homes; 20 million acres were burned across the entire northwest. Now, is this unlikely? Absolutely it is unlikely. The same response that you would get if you were to ask me if a Great Depression were to happen again, unlikely. And yet we still need to prepare for these risks. The second point was – you can't sell that land after you buy it. Why isn't that factored into the

analysis? There's been a lot of discussion about whether or not that statute that prevents you from selling that land is constitutional and I agree with Mr. Early. A string of cases *Commissioners v. Blaine County*, I believe, have stated that...or the argument has been made that really the language here under such regulations that may be prescribed by law is procedural, it's not substantive. But the point is, it is going to be a matter of first impression. Do we really want the state suing the state again, to figure out whether or not a law is constitutional or not? That's the first issue. The second point is that is the state of the law as it exists today. You can't sell that land. You should be considering how much that impacts your value. The last point, just because it goes to the fiduciary duty discussion about taking testimony and comments – should be listening to private industry? I am representing Stimson and the question for Stimson is we have integrated business model – that means that you buy timber from endowment for their sawmills, we buy timberland so we can have our own timber supply for sawmills and sometimes we actually sell timber to other companies for our sawmills. The state doesn't have sawmills. Private industries have sawmills. A lot of the timberlands that they own are close to their sawmills. It is just more cost effective if your supply is close to your manufacturing. In this particular case, the state does have deep pockets, they have lower hurdle rates, they don't have to pay county taxes. Those are...that's not a set for a level playing field when you're talking about these discussions and if we're not going to have timber real estate around our sawmills there's more propensity for us to be looking somewhere else. In fact that's why they left California, that's why they reduced operations in Oregon, and that's why they left Montana because of overburden and unfair treatment of regulations. In 2018, 55 of 65 Idaho timber sales yielded just one or two bids. Stimson bid on 25 of those, we didn't win a lot. But what they did do is add \$4.44 million to the endowment because they participated in those bids. That's the impact. That's why you should consider this type of testimony and with that I will stand for questions.

**Governor Little:** Mr. Chou, and actually Braden brought it up, what is your client's opinion of using the land bank money to facilitate some of these federal lands, the state buying some of these federal lands because obviously your client would probably have a hard time getting any federal land. What do you think their attitude would be about that?

**Mr. Chou:** Governor, I am sure that our client would be very supportive, in fact they have supported efforts in the past, with respect of the Department of Lands to purchase federal lands. That is, I am almost positive, our client's position. Putting on my legal hat, you really have to consider the long-term maximum return for the financial assets.

**Governor Little:** General.

**Attorney General Wasden:** I don't have anything.

**Governor Little:** Irv.

**Mr. Littman:** Mr. Chou, help me understand this last chart a little bit. Do you know what Stimson's self-sufficiency is from their own timberlands on average?

**Mr. Chou:** I apologize sir, I don't know the...

**Mr. Littman:** The portion that...of the purchases they've made recently, the last 5 years, have they purchased timberland from REITs?

**Mr. Chou:** Governor, Mr. Littman, again I apologize....

**Mr. Littman:** Pardon me, purchased stumpage from REITs or TIMOs?

**Mr. Chou:** Governor, Mr. Littman – I am speculating here. They're in the business, I am sure they have, but I can't dispositively represent that without asking them that question.

**Mr. Littman:** I apologize for not knowing. I am assuming that Stimson is neither a REIT nor a TIMO.

**Mr. Chou:** Governor, Mr. Littman that is correct.

**Mr. Littman:** It's a conventional corporate form, own your timberland in fee.

**Mr. Chou:** Governor, Mr. Littman my understanding is it's actually a family held, closely held business company. Yes, the answer is yes.

**Governor Little:** Mr. Chou, something that Deputy Director Groeschl said last time, talked about TIMOs have a policy of just owning this land for 10 or 20 years and, I apologize I should have followed up on that, is that your experience that the TIMOs are in it for...of course TIMOs and REITs are frankly new, they're not that old, they haven't been around that long because they're a creature of the tax laws. Is that your experience that the TIMOs, which we've had testimony in front of this committee, that the TIMOs are not looking at Idaho to purchase, but that they are in the business for just being in the business a while and then getting out and going somewhere else?

**Mr. Chou:** Governor, the short answer is yes. It is my understanding that with respect to one of the Callan reports it does say that TIMOs are looking to get out of Idaho and they actually characterize it as a benefit of purchasing the land here. I think that with respect to why they're doing that, you're speculating as to...I would think that it depends on who owns I guess the assets and those TIMOs. My understanding it if it's an endowment or a pension plan, then sometimes they have to plan on employees retiring and they just take out the money without regard to the market. I am just trying to be fair here. Sometimes, there are other things that they consider. Those things are all speculative and it really depends on the individual that is holding that asset and the TIMOs.

**Governor Little:** Okay. Mr. Littman.

**Mr. Littman:** Excuse me, I am still a little confused. I am still trying to understand how to read this. The headline says that Stimson is no longer participating in auctions, but then says that you did bid on 25 sales and generated \$4.4 million in purchase.

**Mr. Chou:** That's right.

**Mr. Littman:** Are you in the market and buying timber stumpage that you don't own, or not?

**Mr. Chou:** Governor and Mr. Littman I apologize, that actually is my typo. I was sticking some notes in there and that is not correct. Thank you for catching that for me. They are in the market, they are still bidding, and they will, as far as I know, will still continue to bid as long as they have a presence here in Idaho.

**Governor Little:** Thank you Irv and Jeremy. I think the last time when you testified the issue wasn't not in the timber auctions but in the land auctions. That Stimson thinks that because of the unfair participation by the state, that that's one of their big issues here, is they think because the state doesn't pay taxes, the state has some other advantages that they wanted to expand their portfolio in Idaho and because they think that the state is an unfair...when I read that, that's my interpretation, did I miss something the last time Stimson testified?

**Mr. Chou:** No Governor, that is precisely the issue.

**Governor Little:** Okay. Anything else. All right, thanks Jeremy. Carolyn, Representative Troy. I think your house burnt down in that last slide we saw.

**Representative Troy:** Thank you Mr. Governor and committee members. For the record, I am Representative Carolyn Troy from Latah and Benewah Counties, and since Benewah County's been such a topic of the conversation today, I felt like I wanted to jump in a little bit. First of all, Governor, thank you for your thoughtful review of this policy, because as you understand, this impacts much more than our school systems and those other beneficiaries of our trust funds. I think it is important to remember the history of how endowment lands came to be. That they were primarily set up to benefit citizens of the state to enable their continuation and their education. As we're looking at this policy moving forward, let's not lose sight of that history and let's ensure that that history continues to impact our citizens the way the forefathers believed it to work. As I was preparing for today, I looked up the trust in fiduciaries uniform prudent investor act which I am sure you are very aware of. One of the statements in this code really struck home with me. A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of a trust portfolio as a whole and is a part of an overall investment strategy having both risk and return objectives reasonably suited to the trust. I believe that a lot of the conversations that have been taking place today talk a lot about what the impact of these decisions are making on these small rural counties and their ability to provide an education to their citizens. I would like to use for an example, the Fernwood School District in Benewah County, which is very isolated. It's a grade school about 30 miles from St. Maries so there's quite a bus ride for those kids and they're unable to eat their lunches without having the ceiling drop into their lunch meals because it was sprayed on newspaper in order to provide for some insulation in the ceilings. When we're talking about Benewah County that's what we're talking about. There's been a tax shift and as you know on the educational front, that is putting more and more burden on those taxpayers who have property in those counties. They are paying for things that benefit the endowment lands. Those counties are paying for roads, they're paying for emergency services, and they're paying for things important to you to be able to manage these endowment lands. But unlike the Idaho Department of Lands and unlike the Idaho Fish and Game Department, they are not getting any reimbursement, any consideration on your 3.5% hurdle rate threshold. They are paying for that out of their taxpayer dollars from their property taxes, in order to ensure that your lands can be managed appropriately and have emergency services provided. I guess a final point I would like to make is there's lots of ways to manage risk. Cornell was established as a land grant and they chose to take all of their land grant acres outside of their state. It's all in Wisconsin and they've sold most of it off. Idaho has taken a unique approach and we've done a great job managing these properties. But I think we need to continue to remember the history, what the benefit was intended to be was for those citizens seeking an education, seeking to better their lives – we can't lose sight of that. We need to make sure we're not setting up winners and losers between these counties and the Governor knows I've tried to figure out a way that would fall within the constitution to do that. I haven't been very successful yet; I am very concerned about winners and losers in our counties and especially in these small counties where these properties are located and how to ensure that there's some way to take care of their ability to provide roads, emergency services, and their public schools. I stand for any questions.

**Governor Little:** Thank you, Representative. This is very abnormal of me to come to the aid of the Fish and Game, but the Fish and Game when they buy land they do pay...if they buy private land...different than what we can do on the Land Board is the Fish and Game if they purchase land they pay I don't know if it is commensurate with PILT, they pay back to the counties in their acquisitions which the state, obviously Commissioner Lampert reminds us that every time I see him, that we don't.

**Representative Troy:** Governor, I know that it is deeply appreciated by the counties; however, I had lunch with the Director of the Fish and Game last week and he said that they are paying \$0.25 per acre to the endowment lands in order to have access and the endowment is paying \$0.09 to provide services, police services on the endowment lands.

**Governor Little:** What's the nine cents?

**Representative Troy:** Nine cents is being reimbursed per acre to Fish and Game to provide...

**Governor Little:** ...oh, okay, okay. I am talking about the purchase of land. I am saying when Fish and Game purchases land they pay what was commensurate to what the property taxes were. You're talking about specifically about the policy of the Land Board to make sure that these lands are all open to sportsmen and so that's what that...

**Representative Troy:** Paying for services.

**Governor Little:** Yeah, well it's also our constitutional obligation to maximize that recreational opportunity that's out there, so A, it's a benefit to the people and B, it's part of our duty to maximize that...I would suggest...I don't know many landowners that would sell all of their recreation rights for \$0.25, but that's for a different day, so.

**Representative Troy:** Thank you, Mr. Governor, but my point was that the roads and emergency services are not being reimbursed to the counties.

**Governor Little:** And I am keenly aware of that. Any questions. Thank you. That's everyone we had signed up to testify. Thank you all for being prompt and at this point in time, Mr. Littman or General Wasden, have you got any closing comments?

**Attorney General Wasden:** I am prepared to make a motion to adjourn.

**Governor Little:** Well, before you do that, that's a non-debatable motion...

**Attorney General Wasden:** That was my closing comment [laughter].

**Governor Little:** For the three of us, is there any further...and we don't have to come up with it right now. But is there any further information that the subcommittee might need before we go forward? We've got a meeting scheduled on December 18, 2019. That's our next meeting. If there's any further research that either Callan or the Endowment Fund Investment Board, or the Department or obviously our very gracious Attorney General's Office can do – we'll have that dialogue, I think it is the goal of the three of us that we may have a recommendation at the December 18. Anything else? Your motion is in order, General.

There being no further business, at 4:50 pm a motion was made by Attorney General Wasden that the subcommittee adjourn. Mr. Littman seconded the motion. The motion carried on a vote of 3-0.

Idaho State Board of Land Commissioners  
Strategic Reinvestment Subcommittee

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*/s/ Brad Little*

Brad Little  
Chairman, Strategic Reinvestment Subcommittee and  
President, State Board of Land Commissioners and  
Governor of the State of Idaho

The above-listed final minutes were approved by the Land Board's  
Reinvestment Subcommittee at its March 12, 2020 meeting.