

# Minutes of the Joint Legislative Oversight Committee

## February 11, 2021

### Room EW42, Capitol, Boise, Idaho



Cochair Representative Ilana Rubel called the meeting to order at 4:30 p.m. Attending the meeting were Senators Mark Harris (cochair), Dave Lent, Michelle Stennett, David Nelson, Representatives Caroline Nilsson Troy, and Steve Berch. Also present were Rakesh Mohan, director, and other staff from the Office of Performance Evaluations (OPE). In-person and virtual audience members included the following:

Representatives Kevin Andrus, Lance Clow, Chris Mathias  
Senator Jim Guthrie  
Division of Motor Vehicles Policy Manager Brian Goeke, Department of Transportation  
Executive Director Margie Gonzalez, Commission on Hispanic Affairs  
Property Tax Policy Bureau Chief Alan Dornfest, Tax Commission  
Executive Director Seth Grigg, Idaho Association of Counties

### Approval of minutes from February 4, 2021

Representative Troy moved to approve the minutes from February 4<sup>th</sup>, 2021. Senator Stennett seconded the motion, and it passed by voice vote.

### Report presentation: *Driving Authority for Unauthorized Immigrants*

Rakesh Mohan said that the committee released the report to the website in January. The study was requested by 14 legislators, including Cochair Harris and Senator Stennett of the Joint Legislative Oversight Committee. Representative Guthrie was the primary requestor of the study. The report has significant policy implications but does not make policy recommendations. Rakesh said he appreciates the help provided by the Commission on Hispanic Affairs and the Department of Transportation.

Casey Petti, evaluator, thanked the Commission on Hispanic Affairs and the Department of Transportation for their contribution to the report. He also thanked Ann Morse of the National Conference of State Legislatures and Bob Thomas for their consultation on the report.

Casey reiterated that providing driving authority to unauthorized immigrants is a policy decision. The report does not make recommendations but instead provides information on potential effects of a driving authority program, should lawmakers choose to pursue one.

Casey said that the Department of Homeland Security defines unauthorized immigrants as people who are foreign-born and do not reside in the United States legally. Many unauthorized immigrants are in the work force. Addressing unauthorized immigrants is under federal authority, however states have flexibility in providing certain benefits to unauthorized immigrants. As of last year, 13 states offered driving privileges to unauthorized immigrants and 3 more states will offer privileges in 2021.

Casey said there are two main ways that states allow unauthorized immigrants to drive: a **standard driver's license** and a standalone driving credential. Eight states allow unauthorized

**immigrants to get a standard driver's license. Eight other states have created** a new driving credential program with different eligibility guidelines from a standard license.

The requestors asked for information about the potential effects of providing driving authority to unauthorized immigrants in Idaho. There is inconclusive data on how granting driving authority to unauthorized immigrants would affect the cost of automobile insurance. It is unlikely that providing driving authority to unauthorized immigrants would decrease the number of automobile accidents. However, there is evidence that driving authority could decrease accident severity. There is also some evidence that hit-and-run accidents decrease when states provide unauthorized immigrants with driving authority.

Casey said that since driving without privileges is an infraction, it is unlikely that granting driving authority would affect criminal justice administration. There is strong evidence that providing driving authority increases unauthorized immigrant employment. Employment effects are particularly strong among females and in rural communities.

The estimated cost to issue licenses could be offset by revenue generated from application and testing fees, according to OPE analysis. Policymakers should be aware of considerations such as information sharing with federal authorities, documents accepted as identification for individuals to receive driving authority, and application restrictions.

Cochair Harris asked which entity is charged with providing driving authority to unauthorized immigrants. Casey responded that offices of the Division of Motor Vehicles would be responsible, which are operated by the **sheriff's** office in each county.

Cochair Harris asked if people were reluctant to pursue driving authority in states that have separate programs for unauthorized immigrants. Casey said that advocacy groups in some states have discouraged participation in the programs out of concern that participation may identify the person as an unauthorized immigrant. Only a couple of states restrict their driving authorization card only to unauthorized immigrants. Illinois allows authorized and unauthorized immigrants to participate in their program.

Cochair Rubel posited that some hit-and-run accidents may occur because unauthorized immigrants flee the scene out of fear of deportation. Cochair Rubel asked whether this would still occur when someone has driving authorization. Casey said states have addressed this issue **by preventing driving authority documents from being used to identify someone's immigration** status. California has made this illegal, for example. There is also not a federal statute requiring local authorities to provide information to immigration authorities.

Representative Berch asked whether OPE conducted a financial analysis on the economic benefit of unauthorized immigrants receiving driving authority. Casey said that he wished he would have done such an analysis. The fiscal analysis focused on the state impacts, rather than a broader economic perspective. The request did not ask for economic effects, but these effects could be included in a follow up. Representative Berch confirmed that he would be interested in learning more about broader economic impacts of driving authority as part of any follow up the committee requests.

Cochair Rubel asked Brian Goeke, a policy manager with Division of Motor Vehicles at the Department of Transportation, to address the committee. Mr. Goeke thanked OPE for engaging the department in the report and said his feedback was considered throughout the evaluation. The department is neutral in this policy decision but is confident that it could implement a

driving authority program for undocumented immigrants should the Legislature pursue such a program.

Cochair Rubel asked Margie Gonzalez, the executive director of the Commission on Hispanic Affairs, to address the committee. Ms. Gonzalez thanked OPE for their thorough report.

**Hispanics make up 13 percent of Idaho's population. Unauthorized immigrants make up a notable part of Idaho's work force and state's economy. Data shows that** many undocumented immigrants work and pay taxes. Studies indicated that undocumented workers are not displacing US-born workers, rather they are filling jobs that few Americans are interested in pursuing. The policy decision of issuing driving credentials to foreign-born residents should and is an issue of public safety.

**Representative Berch asked Casey whether driving authority impacts a person's ability to vote.** Casey said it would still be illegal for an unauthorized immigrant to vote. States have placed **notices on driver's** licenses to say they cannot be used for federal purposes or identification. The federal Real ID Act also requires this language when it is fully implemented.

### **Report presentation: *County Revenues***

Rakesh Mohan introduced the report on county revenues. The county revenue report followed up on the 2019 report on impact of state mandates on county governments. The Tax Commission, Idaho Association of Counties, and individual officials from counties helped with the analysis.

Amanda Bartlett, principal evaluator, reviewed key findings from the report. **OPE's 2019 report found that Idaho's population growth, need for infrastructure improvement, and limitations on** property taxes led to a concern among counties about how to provide needed services for their communities. Amanda thanked the Idaho Association of Counties, the Tax Commission, Bob Thomas, Jim Brock, and Lauren Bailey for their contributions to the evaluation.

OPE was asked to evaluate trends in overall revenue, the impact of tax restrictions and exemptions, and the impact of federal-owned and state-owned land on counties. The evaluation also revealed several data limitations.

Amanda said that nationwide county revenue outpaced population growth from 1996 to 2016. **However, Idaho's population grew faster than its counties' revenue. There was a 39 percent increase in population and just a 27 percent increase in budgeted revenue. Idaho's per capita** total budgeted revenue declined over this time frame. Property tax was the largest overall source of county revenue after adjusting for hospital charges.

Senator Nelson asked a clarifying question about whether the budgeted revenue growth graph for all U.S. counties included hospital charges and if so, whether that information is available without hospital charges. Amanda responded that she would have to calculate that if needed.

Representative Berch asked if there was any information on why counties nationwide saw their budgeted revenue grow faster than population growth. Amanda said she could follow up with Representative Berch to provide a more detailed breakdown of revenue sources. Idaho also has fewer public hospitals.

Amanda said that the budget cap and levy limits constrain the growth and use of property taxes. Property tax capacity is calculated using the highest budget from the past 3 years, plus a 3

percent growth factor, the new construction tax roll, previously foregone taxes, and voter-approved bonds and levies.

The 3 percent budget cap limited budget growth for more counties in tax year 2018 (20 counties limited) than 2017 (15 counties limited). Levy limits are most constraining when market values are in decline and there are many individual limits. Since 1995 the levy rate has decreased when taxable value increased. Counties have over 40 types of individual property tax levies. Twenty counties were limited in one or more of the four major property tax levies for tax year 2018.

Senator Nelson asked if there was any data on what kind of counties were at their budget limits. Amanda said that the last report found a correlation between rurality and reaching the budget cap. But that correlation did not hold this year because of the increased number of counties reaching the cap. OPE did find that counties with less previously forgone taxes and new construction were more likely to meet the budget cap and levy limits.

Amanda said that property tax exemptions indirectly impact county budgets, primarily because if a county has less taxable value, it is more likely to hit the levy limits. But property tax exemptions more directly impact taxpayers. Overall, there was a 6.5 percent increase in property taxes from 2018 to 2019. However, there was a wide variation in increases experienced by different types of property. Primary residential property saw a 13 percent increase while mining property saw a 2 percent increase, for example.

**If the homeowner's exemption were removed, the total increase in property taxes would stay the same.** However, primary residential property owners would have seen a 39 percent increase in property taxes instead of a 13 percent increase. That rate of increase would not be sustained over time though. Meanwhile, while owners of other property types would have seen a decrease in their property taxes. This demonstrates how property tax exemptions impact property owners, rather than the total amount of property tax collected.

Senator Nelson asked a clarifying question about whether the base case on the graph included **the homeowner's exemption. Amanda confirmed Senator Nelson's understanding.**

Representative Berch indicated that he would follow up with Amanda on some clarifying questions. Representative Berch is also interested in learning more about how the proportion of exempt values has varied over time for urban versus rural counties. Amanda said she could follow up with the Tax Commission about the level of detail available in their exemption data. OPE found that each county has its own individual revenue story.

Representative Troy asked whether commercial property could be broken down into large commercial apartment buildings compared to other commercial property. Amanda said she would have to follow up with that. Representative Troy said that there are several large commercial properties in her district, which pass along property tax increases through rent.

**Senator Lent asked a question concerning the hypothetical removal of a homeowner's exemption.** Amanda explained that removing an exemption would significantly shift what share of the property tax load is paid by different types of property owners in the first year of removal. After the initial increase from this shift, the rate of change would be smaller for homeowners **because first year's increase would be in** the base calculation of future property tax changes.

Amanda continued with her presentation. Though somewhat unsteady, Payment In Lieu of Taxes (PILT) compensates counties for federal land. Congress is not required to fully fund PILT

and the formula for calculating PILT is relatively volatile. Compensation to counties for state-owned land applies only to land owned by the Department of Fish and Game.

Amanda said that data limitations are an ongoing challenge to property tax analysis. There are challenges in accessibility, uniformity, and specificity. Tax impacts are evaluated on an ad hoc basis, usually under time constraints, with data limitations. There are several pieces of legislation being considered related to this evaluation topic, including H0073 and S1048. OPE is also working on a report that will provide more information about how states have tried to create a systemic review of tax preferences.

Representative Berch asked whether OPE identified what would be needed to provide a detailed analysis of taxes and whether the proposed legislation addresses these issues. Amanda said that accessibility, uniformity, and specificity are lacking to provide information about causation and comparative analysis. Some of these issues would be addressed by having counties move on to Transparent Idaho, but success depends in part on the chart of accounts. Representative Berch asked if OPE could suggest a chart of accounts. Amanda said that OPE could review a proposed chart of accounts but that the creation of the chart of accounts would be better created as a joint **effort between the local governments and the Controller's Office as it would require expertise in local government budgets and accounting.**

Senator Lent asked whether there was information to validate **whether data on the homeowner's exemption is accurate.** Amanda confirmed that the county assessors independently appraise real property then the Tax Commission independently cross checks the appraisal values. The **homeowner's exemption is automatically calculated through the Assessor's Office.** Senator Lent asked **whether there is information on whether people claim more than one homeowner's exemption in different counties.** Amanda responded that she knows there is an auditing process but that was not part of the evaluation scope.

Senator Nelson asked how the hypothetical changes property tax budgets would affect taxpayers in counties other than the county used in the evaluation. Amanda said that if residential properties in that county are appreciating at a rate similar to other property types, there would be less of an impact under a property tax freeze. If residential properties in that county are appreciating faster than other property types, a residential homeowner is going to pay more in property taxes that year even with a freeze. **If you were to increase the homeowner's exemption,** the tax shift would go away from homeowners and to other owners of other types of property. If you were to increase the business personal property tax exemption, the tax shift would go away from businesses and on to other types of property owners.

Cochair Rubel asked Alan Dornfest, the property tax policy bureau chief with the Tax Commission, to address the committee. Mr. Dornfest said he appreciated the opportunity to participate in the evaluation and believes OPE did an excellent job in distilling the data. Mr. Dornfest addressed a question previously raised by Representative Troy about further disaggregating commercial property types. The category of 'other residential' contains any residential property that is smaller than four units. However, there is no data to disaggregate grocery stores from large apartment buildings, for example. Regarding the question on **homeowner's exemptions, many county assessors require a lot of data to prevent fraud in homeowner's exemptions. Counties also have a legal right to seek restitution for up to seven years when someone has more than one exemption.** If the committee is interested, the Tax Commission can also provide information on property type in each county. Regarding **Amanda's point about the magnitude of the exemptions, the homeowner's exemption is the largest tracked exemption** however there are many untracked exemptions. For example, the Tax Commission does not know the value of government property in many cases.

Representative Berch asked if there is information on the value of property when it is purchased by the government to help determine how much revenue is lost in such a transaction.

Mr. Dornfest confirmed there is information when the state buys private land. Revenue is not lost due to the tax exemption for government land, instead other property owners must pay more in property taxes. Property that has not transferred from private to public ownership is not tracked though.

Cochair Rubel asked Seth Grigg, the executive director of the Idaho Association of Counties, to address the committee. Mr. Grigg thanked OPE for their work and legislators for requesting this evaluation, including Representative Troy. He said that a study like this is critical to understanding county revenue. Mr. Grigg explained that counties look at their revenue from PILT, the state, fees, and other sources, then they compare that to the cost to provide services. Property taxes fill in the gap between other revenue sources and what is needed to fund services. OPE found that per capita property tax revenue had increased over time while state and federal revenue have been relatively flat when controlling for population growth.

Mr. Grigg clarified that proposed legislation would allow counties to continue budgeting as they do now and then have someone cross walk that data into a uniform chart of accounts in Transparent Idaho.

Mr. Grigg said that counties without new construction face more budgetary challenges. This is compounded by state and federal tax exemptions. Taxing state-owned land would require a constitutional amendment. Benewah County had a recent land transfer from private land to the state endowment, which resulted in a tax shift to other property owners. Counties still collect the tax revenue, but other taxpayers see their property taxes increase as a result.

Representative Troy said she recently procured a list of publicly held land in each county. The Department of Lands charges the endowment to manage endowment lands and so do the endowment fund managers. Counties manage emergency services and road services that allow the land to be profitable at no cost to the state. Representative Troy asked if the only answer to this issue is a constitutional change.

Mr. Grigg said he believes so. It may be appropriate to **ask the Attorney General's office about** whether it is possible for counties to charge user fees of some sort for the services they provide to state-owned land.

### **Other committee business**

Representative Berch proposed that future agendas reserve time for a discussion on how to follow up on an evaluation. Representative Berch said it would be helpful, for example, to further explore ways to solve data limitations and a constitutional amendment concerning tax exemptions for state-owned land.

Cochair Rubel said that generally there is an opportunity to make a motion on any further action, such as having OPE present findings to other germane committees.

Representative Troy said she appreciated Representative Berch raising the issue and would like to find a way to continue to engage report requestors after the evaluation is released. Cochair Rubel also expressed interest in ensuring OPE reports are used to inform policy.

Rakesh said that OPE is always available to answer questions if committee members are interested in changing policy to address evaluation findings. OPE staff has provided information to committee members as they followed up on previous evaluation findings concerning residential care, the Southwest Idaho Treatment Center, and foster care, for example.

*The committee agreed to add a standing agenda item to discuss ways to follow up on evaluation findings.*

The committee discussed ways to pursue next steps and engage requestors while respecting **committee rules and OPE's independence**. **The committee also discussed ways to inform the public** about resulting policy changes.

*The meeting adjourned at 6:15 p.m.*