

Minutes of the Joint Legislative Oversight Committee

February 24, 2022

Room EW42, Capitol, Boise, Idaho



Cochair Senator Mark Harris called the meeting to order at 4:38 p.m. Attending the meeting were Senators Michelle Stennett, Dave Lent, David Nelson, Representatives Ilana Rubel (co-chair), Caroline Nilsson Troy, and Steve Berch. Also present were Rakesh Mohan, director and other staff from the Office of Performance Evaluations (OPE).

Approval of minutes from January 31, 2022

Representative Rubel moved to approve the minutes from January 31, 2022. Senator Stennett seconded the motion, and it passed by voice vote.

Approval of minutes from February 10, 2022

Representative Rubel moved to approve the minutes from February 10, 2022. Representative Troy seconded the motion, and it passed by voice vote.

Discussion of closures and follow-ups of past evaluations

Senator Harris said that the meeting would be a discussion on follow-ups and closures for a cleanup of open projects. He asked Rakesh to introduce the projects.

Rakesh said that this is an important meeting since there are reports that have been sitting that need to be taken care of. There was a list of 18 projects to be closed or have action taken on them through either some kind of update or follow-up.

Rakesh said that evaluations can have recommendations for agencies to improve a process or comply with state laws and rules, and policy considerations which are for the Legislature and the Governor. Rakesh explained that policy considerations are complex issues with many moving parts and a lot of political balancing. None of that is in OPE's hands. That is for the Legislature and the Governor. Rakesh said that OPE does follow-up reviews to assess the implementation status of its recommendations. For policy considerations there is not much OPE can do. OPE can do a small report or update saying what the policy considerations were, but there is nothing to point to in terms of legislation. However, that does not mean nothing happened. Legislators may have discussed the recommendations, and something may be done in the future. Discussions and bills related to OPE reports are included in the office's performance measures. If there is nothing to follow up on, the committee closes the report. A closed report does not mean that OPE cannot look at a related issue again. JLOC's role is to guide and direct OPE. Rakesh said that if something is still a concern to JLOC, members can always ask for an update or a 24-hour review. They just need to ask. Closed projects are not taken off the OPE website and are always available.

Senator Harris asked if they should go through the projects one at a time to close. Rakesh responded that it was up to the committee.

Rakesh began by going over the reports recommended to be closed. Rakesh said that with the first report, *The K-12 Longitudinal Data System ISEE*, many things have changed since the report was released. If there are concerns with ISEE a new request is needed.

Rakesh asked if the committee wants to go over the requests one at a time. Representative Troy responded that she would like to go one at a time.

Representative Troy moved to close *The K-12 Longitudinal Data System ISEE*. Senator Stennett seconded the motion and it passed by a voice vote

Rakesh mentioned that the report received a major outstanding evaluation award from the American Evaluation Association.

Rakesh said that there were several updates on *Risk of Bias in Administrative Hearings* provided to JLOC by principal evaluator, Amanda Bartlett, and that OPE has also talked to relevant germane committees about the study. He explained that whatever needs to be done would be done by the Legislature and that there is nothing OPE can do.

Representative Troy asked where the updates reside as she did not see them on the OPE website. Rakesh responded that some of the updates were oral updates presented to JLOC. Unless there was a report prepared, they would not be on the OPE website.

Representative Troy said that this project is of interest to her. She read through the report recently and one of the things she doesn't think was reflected in the report was the reluctance of citizens who have had administrative hearings with agencies to complain because of their fear of retaliation and the heavy-handedness of those agencies. She is not asking to keep the evaluation open because she is hoping to resolve the issue with legislation this year. Representative Troy said she would love any updates on that.

Representative Troy moved to close *Risk of Bias in Administrative Hearings*. Senator Lent seconded the motion and it passed by voice vote.

Representative Berch mentioned that the minutes from these meetings are excellent. He asked if the minutes from the meetings with the updates could be made available on the website. Rakesh asked Amanda to respond directly to Representative Troy's question.

Amanda said that she could very easily provide an update on the policy discussions since the report. There have been two committee meetings and multiple bills around how the state runs the meetings. She has gotten feedback from citizens asking for more information on the report. One of the initial challenges was that OPE couldn't use agency records to contact people for survey work. There are rules around how agency records can be used for surveying and contacting people.

Representative Berch said that his request was for the minutes to be made available on the website to document the oral updates. Amanda responded that the minutes are public and posted online and could be linked on the report pages when appropriate.

Representative Troy said that it's a great report. She asked if there was no way to do a survey without requiring people to disclose the agency or outcome when responding to whether or not they had a fair hearing. Amanda responded that OPE spent a lot of time thinking through that. The challenge is getting the contact list to begin with. She explained that OPE would have to pay for the contact list and then acquire a representative sample size. It would be possible but pricey.

Rakesh introduced the next project, *Residential Care*. The report was released in 2018, with a limited follow-up completed in 2018 and a follow-up completed in 2020. JLOC asked OPE to keep an eye on the agency.

Representative Troy asked if the *Residential Care* report was the licensure review. Rakesh responded yes. Representative Troy said that she would like to know if the agency has accomplished the goals that were set forth that they agreed to work on. At the time of the last update, they had reached less than half of the goals. Representative Troy said she would like to see the agency continue to make improvements and that she is not comfortable with closing the report.

Representative Troy moved to keep *Residential Care* open. Senator Lent seconded the motion and it passed by voice vote.

Rakesh responded that he would try his best to get an update on the *Residential Care* report during this legislative session.

Rakesh said that *Court-Ordered Fines and Fees* was released in 2019 with a follow-up report given to JLOC in 2020. Rakesh said there were many issues related to that project. He explained that a follow-up could be done but that there were too many moving parts. Representative Troy mentioned that the report was a rabbit warren – where the fines and fees were, how many were being collected, and how the court interacted with the team at OPE to report back. She said it was very disappointing that their sincere interest didn't result in the desired outcomes. She said she didn't know if it would be worth circling back around to see if they could answer these questions, and that she doesn't think we understand what is going on with fines and fees.

Representative Berch moved to close *Court-Ordered Fines and Fees*. Senator Stennett seconded the motion.

Representative Berch said that he wasn't involved in the report, but he is trying to think of what legislative action could come from the report. Representative Troy said that he would see things differently if he saw the court budgets and the missed opportunity to self-fund the courts. She explained that the courts are not collecting millions of dollars of fines and fees and it is not known why. Rakesh commented that JLOC could close the report but ask the courts to give an update on the recommendations that were made to JLOC. After that if a new report is needed, JLOC could direct OPE.

Representative Berch recalled his initial motion and moved to close *Court-Ordered Fines and Fees* and have the courts address JLOC on the matter. Senator Stennett seconded the motion and it passed by voice vote.

Rakesh introduced the *Non-Emergency Medical Transportation* (NEMT) report. Rakesh said there are many things the Department of Health and Welfare is working on changing, but there is nothing more OPE can do. OPE is currently working on a Medicaid provider rate settings report that will include recommendations that would cover any remaining issues on NEMT.

Representative Troy moved to close *Non-Emergency Medical Transportation*. Representative Rubel seconded the motion and it passed by voice vote.

Representative Troy moved to close *County Revenues*. Senator Lent seconded the motion.

Representative Troy said that legislation was passed last year to put counties on Transparent Idaho and that will help the Legislature and counties understand how requests of them will impact their budgets. She would like to commend OPE for helping the Legislature see the need for legislation. Representative Rubel said that she would have liked to see the report stay open. She said she still feels like it is a raw issue with a lot of misinformation on counties and their fiscal prudence, such as that “counties are wildly spending.” It has been helpful to point to the report. Representative Rubel said that she was hoping to get a refresher on the information included in the report, namely the chart that looks at spending growth and population growth.

Representative Rubel made a substitute motion to keep *County Revenues* open for the limited purpose of updating that chart and then closing the report. Senator Stennett seconded the motion.

Senator Stennett said that she agrees with Representative Rubel. She explained that much of what the Legislature is doing, such as deciding budgets and the crisis that is happening with emergency services, is exacerbated by COVID and property taxes. She agreed that an update would be helpful. Rakesh mentioned that this is an excellent example of the difficulty in drawing explicit connections between our reports and legislative action, but that legislators are aware of how our reports are used. He asked Amanda if the chart could be updated, she responded that she could update the chart.

The substitute motion passed by a voice vote.

Rakesh said that *Driving Authority for Unauthorized Immigrants* received a lot of press and that OPE did what we were asked to do. There is nothing more OPE can do on the report and recommend that it be closed.

Senator Nelson moved to close *Driving Authority for Unauthorized Immigrants*. Representative Rubel seconded the motion and it passed by voice vote.

Rakesh explained that *Designing a Review of Tax Preferences* includes only policy considerations for the Legislature with no actions for agencies to take. He explained that if there is a new request for action on that report, OPE could do it.

Representative Berch said that he is in the process of putting together a working group to follow up on that report. He could see the group asking OPE to amplify some of the work that has already been done. He asked if the report needed to stay open for any additional depth of information, or if it could be closed and still have that request? Rakesh responded that the report does not need to be open for OPE do additional work. Representative Berch asked if any and all interactions with OPE require permission from JLOC, or if requests for additional information are something individual legislators can navigate as they move forward? Rakesh responded that since day one his goal has been to be responsive to the committee and Legislature. He will do his best to do be responsive and if permission from JLOC is needed, he will ask for it.

Representative Berch moved to close *Designing a Review of Tax Preferences*. Representative Rubel seconded the motion and it passed by voice vote.

Rakesh said that *K-12 Public School Buildings* was just released and has gotten a lot of attention but has no recommendations for the department or State Board of Education to follow up on. There are policy considerations for the Legislature around maintenance plans.

Senator Nelson moved to close *K-12 Public School Buildings*. Senator Lent seconded the motion and it passed by voice vote.

Rakesh mentioned that Casey has done additional work on the *K-12 Public School Buildings* report that will be provided to JLOC soon.

Investments in Postsecondary Education was discussed next. Rakesh said that instead of doing a follow-up, a letter should be written to the germane committees asking for OPE to present the report. He explained that the State Board of Education needs to communicate with the germane committees about the purpose of the Advanced Opportunities and Opportunity Scholarship programs, and what they want to measure for performance. After that, a follow-up could be done.

Senator Nelson said that he is dissatisfied that the report only answered a small part of the request. Rakesh said that only a small part was evaluated because the request was very broad. There were multiple discussions with requestors and stakeholders, and it was decided to start with something tangible. He said that Senator Nelson is right that there were other things that were not done, but it is unknown what those other things were. Rakesh said that if there is something that was not addressed that JLOC would like OPE to evaluate, the committee would need to direct OPE specifically on what to do.

Representative Rubel said that it seemed like not enough time had passed from growth and changes within the Opportunity Scholarship and Advanced Opportunity to see if students would graduate. She asked Rakesh if there would be better information if we waited longer. Rakesh responded that she was correct. There will be more information and better information if we wait for several years. Before a follow-up, the State Board of Education needs to work with the germane committees to decide what to track for the programs. He also mentioned that a follow-up review would be limited to what the report included, and additional direction would be needed to expand the report.

Representative Berch asked if keeping the report open would allow more work to be done. Rakesh responded that if the follow-up would answer the questions that Representative Rubel asked, then the committee does not need to have a new project. However, if a follow-up was to include more than that, OPE would need to be directed by the committee. Representative Berch said that either way it sounds like a new project would need to be requested.

Representative Rubel said that she was curious to get Representative Troy's perspective as one of the requestors of the report.

Senator Stennett left the meeting.

Representative Troy moved to close *Investments in Postsecondary Education*. Representative Rubel seconded the motion and it passed by voice vote.

Rakesh explained that the projects on pages 3 and 4 need committee action. There are four projects on child welfare: *Child Welfare*, *Representation for Children and Youth in Child Protection Cases*, *Child Welfare System: Reducing the Risk of Adverse Outcomes*, and *Evaluation and Retention of Child Neglect Referrals*. Rakesh recommended that OPE do one combined follow-up on all four reports since they are interrelated and have overlapping themes. Representative Berch asked if this additional work would take a spot for a new project. Rakesh responded that it would not. Senator Nelson asked if OPE would seek JLOC direction on what to

follow-up on. Rakesh responded that if OPE needs direction he would ask, but that it may be pretty straightforward.

Sen Nelson moved that OPE do one follow-up for all four child welfare reports. Senator Lent seconded the motion and it passed by voice vote.

Rakesh said that *Southwest Idaho Treatment Center* (SWITC) was released in 2019 and that it was a difficult project dealing with a vulnerable population. The findings were an eye opener. He recommended doing a follow-up considering the importance of the issues that were discussed in the report and mentioned that Ryan Langrill served on a working group for SWITC. Senator Nelson said that he agreed and asked when a follow-up would be done. He said that SWITC is in the process of changing their model now and asked if OPE should wait a year or two. Rakesh said that was a good point. He said he was going to talk with Director Jeppesen to see what he thinks and then report back to JLOC.

Senator Nelson moved that OPE do a follow-up of *Southwest Idaho Treatment Center* with input from Director Jeppesen on timing. Representative Rubel seconded the motion and it passed by voice vote.

Rakesh said that *Managing Correctional Capacity* was released in 2020. He explained that at the time of the report there were issues with inmates being sent out of state, but since then things have changed. OPE is currently doing a two-phase criminal justice project that involves the Idaho Department of Corrections (IDOC). He said a follow-up is needed but recommended waiting until after the first criminal justice report is released.

Senator Lent moved to keep *Managing Correctional Capacity* open. Representative Troy seconded the motion.

Senator Lent commented that a prison study was done in 2010 as well and asked Rakesh when a follow-up should be done. Rakesh responded that the 2010 report looked at prison efficiency – e.g., which prison unit needed to be upgraded, maintained, or eliminated. However, not much happened after the report's release. The 2020 report was requested because inmates were being sent out of state and now there is conversation about a new prison. The current report is looking at the criminal justice system. He said that a follow-up should be done in a couple of years.

Senator Lent said that since there are a lot of things happening in that space right now with new facilities, it may be better to wait. Representative Troy agreed with Senator Lent. There is over \$200 million going into facilities now. She said that the current IDOC director understands the difference in beds and what the right kind of beds are for the types of prisoners we have. The plans for the women's prison and other facilities are wiser investments. Representative Troy said a follow-up could be done even 5 years down the road. Rakesh said some of the things that are happening now in the prison system are from the 2010 report that talked about the women's prison and that he is glad things are happening.

Representative Troy left the meeting.

The motion passed by a voice vote.

Rakesh said that *State Response to Alzheimer's Disease and Related Dementias* was one of OPE's best reports recently and that things happened in response to the report. Sasha O'Connell gave an update on the report during the January 27 JLOC meeting. A similar update could be presented next year and a follow-up in the following year since things are still happening.

Representative Rubel moved to keep *State Response to Alzheimer's Disease and Related Dementias* open. Senator Lent seconded the motion and it passed by voice vote.

Rakesh said that *Volunteer Providers of Emergency Medical Services* has recommendations for the department to make changes and policy considerations for the Legislature. He recommended keeping the report open and doing a follow-up in more than a year since it takes time for things to be implemented. He mentioned that an EMS bill was presented in the house.

Senator Nelson moved to keep *Volunteer Providers of Emergency Medical Services* open. Representative Berch seconded the motion and it passed by voice vote.

Senator Harris asked if there was any other business. Rakesh responded that a reminder needed to be sent to all legislators to submit project requests. He said that he will discuss this with the cochairs. He mentioned that there would be meetings on *Medicaid Provider Payments* and topic selection in March.

Senator Harris thanked OPE staff for all the work they do.

The meeting adjourned at 5:39 p.m.