

**RULES OF THE
JOINT LEGISLATIVE OVERSIGHT COMMITTEE
Adopted January 2011**

I. INTRODUCTION

1. Purpose

The purpose of these rules is twofold. First, the rules provide a basis for the operations of the Joint Legislative Oversight Committee (Committee) and the Office of Performance Evaluations in selecting, conducting, and reporting performance evaluations and federal mandate reviews. Second, the rules serve to inform members of the Legislature, the evaluated agencies, and the general public of the procedures that will be followed in conducting performance evaluations.

2. Definitions

(a) Performance Evaluation

A performance evaluation is an examination of the effectiveness, efficiency, and adequacy of the administration of state agency programs. By statutory definition state agencies include state boards, commissions, departments, offices, or institutions of the state of Idaho. Agencies also include cities, counties, districts, or other political subdivisions of the state created by statute that have the authority to levy, collect, and spend tax moneys.

(b) Final Performance Evaluation Report

A final performance evaluation report is the written result of a performance evaluation, and sets forth the scope, methodology, and findings of a performance evaluation. If provided, a final performance evaluation report includes the written response of the evaluated agency and the Office of the Governor to the final draft.

(c) Release of a Final Performance Evaluation Report

The presentation of a final performance evaluation report to the Joint Legislative Oversight Committee at a public meeting constitutes its release.

(d) Proposed Statutes or Rules

Proposed statutes means statutory changes being proposed for consideration as a R. S. or bill by the Legislature. Proposed rules means any rule published in the *Administrative Bulletin*.

(e) **Federal Mandate Review**

A federal mandate review is a written report on requirements reported to be mandated by federal statutes or regulations and the extent to which existing or proposed statutes and rules of the state comply with these reported requirements.

3. **Committee Membership**

Legislative Council, pursuant to statute, shall appoint the members of the Joint Legislative Oversight Committee. Membership on the Committee shall be evenly divided between the Senate and House of Representatives, and evenly divided between the two largest political parties represented in the Legislature. Legislative Council shall appoint the co-chairs of the Committee, who shall be from different houses of the Legislature and from different political parties.

(a) **Committee Co-chairs**

It shall be the responsibility of the co-chairs to conduct committee meetings at such times as they deem necessary. It shall further be the responsibility of the co-chairs, provided they are in agreement, to act on behalf of the Oversight Committee in administrative matters.

II. OVERSIGHT COMMITTEE PROCEDURES

1. **Adoption of Rules**

The Joint Legislative Oversight Committee shall adopt Committee Rules at its first meeting after the commencement of the session of a new Legislature. These rules shall remain in effect during the biennium. Any change to the rules shall require an affirmative vote by a majority of the members of the Committee.

2. **Rule Authority**

Unless the Joint Legislative Oversight Committee adopts specific rules, the Joint Rules of the Senate and House of Representatives shall govern the proceedings in the Committee, or, in the absence of Joint Rules, Senate Rules shall apply. In all cases not otherwise provided for, and in which they are not inconsistent with Committee Rules, Joint Rules,

or Senate Rules, the general rules of parliamentary practice and procedure as set forth in *Mason's Manual of Legislative Procedure* shall govern the proceedings of the Committee.

3. Meetings

Meetings of the Joint Legislative Oversight Committee shall be held at such times as the co-chairs deem necessary.

4. Minutes

A written summary of the proceedings shall be kept of each meeting of the Joint Legislative Oversight Committee. Upon correction and approval by the Committee, all minutes shall be filed as public records in the Office of Performance Evaluations and the Legislative Library.

5. Quorum

The Joint Legislative Oversight Committee shall not transact business except upon a quorum being present when the Committee convenes, nor thereafter if any member objects to the lack of a quorum. A quorum shall consist of a majority of the Committee membership.

6. Motions and Related Parliamentary Procedures

- (a) No motion shall be debated or voted upon until the same is seconded and then placed before the co-chairs.
- (b) Motions to adjourn or recess are non-debatable questions. These motions must be seconded, placed before the co-chairs, and then a voice vote taken. No debate is allowed.
- (c) A roll call vote shall be taken on any motion at the request of any member of the Joint Legislative Oversight Committee.
- (d) The co-chairs may, at their discretion, ask for unanimous consent on any question properly placed before the Committee.

7. Executive Session

The Joint Legislative Oversight Committee, upon a two-thirds (2/3) vote, may meet in executive session to consider any matter provided for in section 67-461(4), Idaho Code. A roll call vote shall be taken on any motion to meet in executive session.

8. Taking Testimony

At the release of a final performance evaluation report, the Joint Legislative Oversight Committee will not receive oral or written testimony from sources other than staff of the Office of Performance Evaluations, agency representatives, and the Office of the Governor, unless an invitation to present such testimony has been extended by the co-chairs of the Committee and such invitation has been approved or ratified by a majority vote of the Committee.

9. Recording Testimony Under Oath

The Joint Legislative Oversight Committee may take testimony under oath as provided in section 67-462, Idaho Code.

10. Subpoena Power

The Joint Legislative Oversight Committee may issue subpoenas upon the signature of either of the co-chair, as provided in section 67-460(7), Idaho Code.

III. SELECTING AND CONDUCTING PERFORMANCE EVALUATIONS

1. Topic Selection.

(a) Requests for evaluation may be submitted at any time. The Director of Legislative Performance Evaluations shall maintain a list of possible evaluation topics from legislators and legislative committees. The Director of Legislative Performance Evaluations and the Director of Legislative Services may also suggest topics for evaluation. This list of possible topics shall be presented for consideration to the Joint Legislative Oversight Committee.

(b) In a letter following the legislative organizational session, the Director of Legislative Performance Evaluations shall invite all members of the Legislature to submit requests for evaluations for the Committee's consideration. The invitation for evaluation requests shall alert Legislators that while the Committee will consider all requests for evaluation, the Committee has the discretion to accept or decline such requests. At other times as appropriate, the Director shall also invite legislators and legislative committees to submit requests for evaluation.

- (c) A legislator or legislative committee shall sponsor possible evaluation topics. Citizens or state employees with possible topics shall be instructed to work through legislators for submission to the Committee.
- (d) The Director of Legislative Performance Evaluations shall conduct background research as necessary on possible topics to assist members of the Joint Legislative Oversight Committee in selecting topics to conduct performance evaluations.
- (e) When a member of the Legislature makes a request for an evaluation, the Director of Legislative Performance Evaluations may conduct background research to determine if the request warrants a performance evaluation. If the Director determines that a performance evaluation is not needed, the Director will respond to the legislator's request by providing relevant information. Providing of such information will depend on the following:
 - (i) The information is readily available and does not require detailed verification
 - (ii) It will take a relatively short time (no more than 24 working hours) to address the legislator's request
 - (iii) Office of Performance Evaluations staff are available to do the research
- (f) The Joint Legislative Oversight Committee may table a requested performance evaluation for a period of nine (9) months. If, after the expiration of the nine-month period, the Committee has not directed the Director of Legislative Performance Evaluations to continue the evaluation, the evaluation will no longer be actively pursued.

2. Limited Scope Evaluations

- (a) Limited scope evaluations are evaluation projects anticipated to require not more than 150 hours of fieldwork to complete.
- (b) The Director of Legislative Performance Evaluations shall conduct a limited scope evaluation at the direction of the Joint Legislative Oversight Committee, or upon the written direction of the co-chairs of the Committee, provided that at least five members of the Committee total approve undertaking the limited scope. In this case, the Director of Legislative Performance Evaluations shall distribute a copy of such written direction to each member of the Committee. If a committee member objects to

- the assignment, he or she shall notify the Director of Legislative Performance Evaluations within ten business days after the written direction to conduct a limited scope evaluation was distributed. The Director of Legislative Performance Evaluations shall discontinue a limited scope evaluation upon the receipt of notice from four or more members of the Committee that such members do not approve.
- (c) In conducting a limited scope evaluation, all other processes for the conduct and release of a performance evaluation and final performance evaluation report shall apply.

3. Project Scope Development

- (a) Upon the Joint Legislative Oversight Committee's selection of a topic for evaluation, Legislative Performance Evaluations will develop a project scope, outlining research objectives to address issues raised in the evaluation request. Once the project scope is complete, the scope will be provided to members of the Joint Legislative Oversight committee for input.
- (b) At the request of the Director of Legislative Performance Evaluations, committee members may move to approve the project scope.

4. Notification of Selection

Upon the Joint Legislative Oversight Committee's selection of a topic for evaluation and review of the project scope, the Director of Legislative Performance Evaluations shall send a letter to the Director, Administrator, governing body, or chief executive of any agency to be evaluated. The letter shall inform the recipients of the Committee's selection and shall briefly explain the purpose and scope of the selected evaluation topic.

5. Opening Conferences

Following the Joint Legislative Oversight Committee's selection of the topics for evaluation, the Director of Legislative Performance Evaluations shall schedule an opening conference with representatives of the agency to be evaluated, for the purpose of describing the scope of the evaluation, the proposed schedule, and the data that will be needed. Members of the Joint Legislative Oversight Committee or any other member of the Legislature shall not attend such conferences.

IV. PREPARATION AND RELEASE OF FEDERAL MANDATE REVIEWS

1. The chair of any standing committee or the Director of the Legislative Services Office may request a federal mandate review from the co-chairs of the Joint Legislative Oversight Committee, who may direct the Director of Legislative Performance Evaluations to undertake such review.
 - (a) A request for a federal mandate review shall be directly related to proposed statutes or rules as defined in Section I(2)(d) above.
 - (b) A federal mandate review shall be final when the requirements of relevant federal statutes and regulations are set forth and the manner in which Idaho statutes and rules meet or do not meet relevant federal requirements is provided.
 - (c) A requested federal mandate review shall no longer be actively pursued when
 - (i) the standing committee chair requests the Director of Legislative Performance Evaluations to terminate the review; or,
 - (ii) the Committee co-chairs request the Director of Legislative Performance Evaluations to terminate the review, who shall then notify the standing committee chair of such.
 - (d) Partial or interim reports on the federal mandate review may be released as deemed appropriate by the Director of Legislative Performance Evaluations.
 - (e) Any request subsequent to and directly related to a federal mandate review constitutes a request for a federal mandate review and shall be requested in a manner consistent with Section IV(1) of these rules.
2. Requests for federal mandate reviews shall be undertaken in the order in which they are approved by the co-chairs of the Joint Legislative Oversight Committee.
3. Reports on federal mandate reviews may be accompanied by oral briefings or presentations at the request of the standing committee chair.
4. Members of the Joint Legislative Oversight Committee will receive copies of each final federal mandate review at the same time the standing committee chair is provided the report. In the event a partial or interim report on a federal mandate review is released, members of the Committee will receive the partial or interim report at the same time it is provided to the standing committee chair.

V. PREPARATION, RELEASE, AND CONFIDENTIALITY OF PERFORMANCE

EVALUATION REPORTS

1. Preliminary Drafts

- (a) Preliminary drafts of performance evaluation reports will be distributed to the evaluated agency for review and comment. The staff of the Office of Performance Evaluations will consider each comment and discuss possible revisions of the draft with agency officials, preferably at a closing conference.
- (b) The evaluated agency will have, as a matter of practice, 14 days to review and comment on a performance evaluation report. The 14 days will commence from the receipt of the preliminary draft to submission of the evaluated agency's written comments, if desired. This period may be extended or reduced through negotiations between the evaluated agency and the Director of Legislative Performance Evaluations to account for special or extraordinary circumstances.
- (c) When an evaluation is related to operations in the executive branch, the Governor will also receive a preliminary draft of the report at the same time as drafts are distributed to evaluated agencies, so that, should he choose to do so, he may begin drafting a response.

2. Distribution of Final Drafts and Reports

- (a) Final drafts of performance evaluation reports will be provided to the evaluated agency and the Governor for review. Their responses, if any, will be included in the published final performance evaluation report. All information transmitted as part of this review process is confidential and exempt from disclosure until the release of the final report.
- (b) Members of the Joint Legislative Oversight Committee, representatives of the evaluated agency, and the Governor will receive copies of the final performance evaluation report at least one day prior to its release at a committee meeting. Until the release of the final report at a committee meeting, the performance evaluation report and its contents will remain confidential and exempt from disclosure.
- (c) An advance copy of the final performance evaluation report will also be provided to the Speaker of the House, the Senate President Pro Tempore, co-chairs of the Joint

Finance Appropriations Committee, and the chairs of relevant germane committees at least one day prior to its release at a committee meeting but not before the report is provided to members of JLOC, the Governor, and the evaluated agency. Until the release of the final report at a committee meeting, the performance evaluation report and its contents will remain confidential and exempt from disclosure.

3. Testimony From Evaluated Agencies and the Governor

Following the presentation of a final performance evaluation report to the Joint Legislative Oversight Committee, a representative from each agency evaluated in the report, and the Governor or his representative, shall have the opportunity to respond.

4. Release and Distribution of Performance Evaluation Reports

Following their release, final performance evaluation reports shall be made available by the Director of Legislative Performance Evaluations to the state library, the news media, and representatives of the evaluated agency. No later than one day following their release, reports will be made available to all members of the Legislature, the public, and other parties.

5. Working Papers

(a) All working papers related to the preparation of a final performance evaluation report shall become public documents either upon release of the final report to the Joint Legislative Oversight Committee or at the point when a performance evaluation is no longer being actively pursued. Working papers shall remain confidential and exempt from disclosure prior to that time except as otherwise provided by law or Committee rules.

(b) Except as otherwise provided by law, the Office of Performance Evaluations shall not release any performance evaluation working papers, either before or after the release of a final report, containing information that would otherwise be confidential or exempt from disclosure pursuant to the provisions of chapter 3, title 9, Idaho Code.

(c) After the release of a final performance evaluation report, the Director of Legislative Performance Evaluations shall refer requests for access to state agency records in his or her possession to the state agency that is the official custodian of the requested records. Such agency shall be responsible for responding to the request for public

records. In no event shall this subsection be construed to prohibit or prevent public access to state agency records in the possession of the Director of Legislative Performance Evaluations that would otherwise be subject to disclosure under chapter 3, title 9, Idaho Code.

(d) Pursuant to any subpoena, subpoena duces tecum, or court order, the Office of Performance Evaluations shall make relevant working papers available as ordered, subject to any applicable privileges, rights, or requirements of confidentiality.

6. Confidentiality of Individuals

If data supplied by an individual are necessary to initiate, continue, or complete a performance evaluation, the Director of Legislative Performance Evaluations may, by written memorandum to the file, provide for the confidentiality of an individual's identity. Such memorandum shall protect the identity of the individual from disclosure under chapter 3, title 9, Idaho Code.

7. Vote to Receive

Prior to the presentation of a final performance evaluation report at a meeting of the Joint Legislative Oversight Committee, the Committee shall vote on a motion to receive the report. Adoption of the motion to receive shall constitute the completion of performance evaluation procedures regarding the report.

8. Availability of Reports at Committee Meetings

Each report shall be made available to the public and the media following the passage of a motion to receive the report at a meeting of the Joint Legislative Oversight Committee.

9. Independence of Work

All findings and recommendations in a final performance evaluation report shall represent the work of the Office of Performance Evaluations only, and shall not be considered the views or recommendations of the Joint Legislative Oversight Committee. A vote by the Committee to receive a final report shall not be construed as an endorsement of the findings or recommendations therein, but shall indicate the Office of Performance Evaluations has completed the evaluation and the report is ready for public distribution.

VI. ACTION FOLLOWING THE RELEASE OF A FINAL PERFORMANCE EVALUATION REPORT

1. **Introduction of Legislation**

Following the release of a final performance evaluation report, the Joint Legislative Oversight Committee may adopt or develop recommendations for proposed legislation. The co-chairs or their designees in their respective legislative bodies shall introduce any legislation proposed by the Committee. The co-chairs may include in the bill an endorsement identifying the Joint Legislative Oversight Committee as the party requesting introduction.

2. **Other Actions**

The Joint Legislative Oversight Committee may wish to take additional actions following the release of a final performance evaluation report.

(a) These may include

- (i) referring the report to germane legislative committees in the Senate and the House;
- (ii) requesting certain follow-up activities or actions in response to the report;
- (iii) appointing a subcommittee to request and monitor agency action on report recommendations.

(b) Unless otherwise directed by the Joint Legislative Oversight Committee, the Office of Performance Evaluations shall review evaluated agencies' progress in implementing recommendations made in performance evaluation reports one year following the release of the performance evaluation report and report to the Committee on their progress. The Committee may request that representatives of the evaluated agencies appear before the Committee to report on progress in implementing recommendations made in performance evaluation reports. The Committee may further direct the Office of Performance Evaluations to continue to monitor agency implementation at one-year intervals.

(c) In all follow-up activities, the Office of Performance Evaluations may provide to a sub-committee or germane committee information and data that have been collected or analyzed to complete the performance evaluation that has been released. The Office of Performance Evaluations may not conduct additional research or use further

staff resources, except as directed by the Committee to complete a performance evaluation or follow-up evaluation.