

Minutes of the Joint Legislative Oversight Committee

March 22, 2022

Room EW20, Capitol, Boise, Idaho



Cochair Senator Mark Harris called the meeting to order at 8:05 am. Attending the meeting were Senators Michelle Stennett, Dave Lent, David Nelson, Representatives Ilana Rubel (cochair), Paul Amador, Caroline Nilsson Troy, and Steve Berch. Also present were Rakesh Mohan, Director, and other staff from the Office of Performance Evaluations (OPE).

Audience members included the following:

Senator Abby Lee and Representative Lance Clow

Dave Jeppesen, Director of the Idaho Department of Health and Welfare

Mel Leviton, Director of the State Independent Living Council

Christine Pisani, Director of the Idaho Council on Developmental Disabilities

Gloria Totoricaguena, Consultant at Idaho Policy and Consulting LLC

Approval of minutes from March 16, 2022

Rakesh asked members to clarify whether they intended for OPE to only present *Medicaid Rate Setting* findings to germane committees last week or also wanted a follow-up evaluation next year. Members indicated that they would like both.

Senator Nelson moved to approve the minutes from March 16, 2022 with an adjustment to reflect that the committee would like OPE to produce a follow-up evaluation for *Medicaid Rate Setting* and to request that germane committees allow OPE to present the report findings. Cochair Representative Rubel seconded the motion, and it passed by voice vote.

Presentation of proposals

Rakesh explained that Christine Pisani would present the request related to the direct care workforce for home and community-based services. Cochair Harris invited Christine Pisani to present the request.

Direct care workforce

Christine Pisani thanked officials with the Department of Health and Welfare for their input on the proposal to study challenges and solutions for the direct care workforce. Medicaid home and community-based services offer seniors and people with disabilities the option to receive services in their home. There has been a shortage of direct care providers and the COVID-19 pandemic has worsened these concerns. These workers provide important tasks like medication management, bathing, and home support. The direct care workforce serviced 15,500 people in an average month last year, including many children. It is imperative that Idaho have a thriving direct care workforce to support residents.

Senator Lent asked if there was a relationship between this type of care provider and a certified nursing assistant (CNA). Christine said that you can be a CNA and provide these services, but CNAs are often in assisted living facilities, nursing facilities, and other settings.

Senator Lent asked if Christine was aware of the study for CNA workforce needs. Christine said that she was aware but clarified that although some are CNAs, there is not a certification process for many direct care providers.

Senator Nelson asked for more information on the reasoning behind the direct care registry. Christine said that there had been work done on a caregiver registry (also known as the maltreatment registry). But this registry is about available staffing and their certifications or skills, rather the maltreatment of vulnerable adults.

Representative Berch asked whether the fiscal aspect would be included in the request. Christine said that OPE's report, *Medicaid Rate Setting*, fulfilled that goal to some extent. The follow-up evaluation will also help. Christine said that she knows that the wage setting is important, but it is not the full scope of the problem. This study would focus on other components.

K-12 classified staff

Cochair Harris invited Representative Clow to present his request of a study related to k-12 classified staff.

Representative Clow said that over the years he has heard conversations about staff allowances in the school funding formula. Representative Clow said that he did some research and discovered that the class allowances were set back in 1994. There have been a lot of changes since then in technology, reporting, and other areas that affect the responsibilities of classified staff at schools. The pandemic brought attention to this issue due to many needed technology changes. Representative Clow requested that OPE review Idaho's funding formula and resulting compensation to see how it compare to other states and Idaho's needs.

Representative Nilsson Troy said that there was interest from the Division of Human Resources to learn more about workforce needs across all agencies. This evaluation would be good to do at the same time.

Representative Amador said that there has been a lot of work on the funding formula that did not come to fruition. Representative Amador asked how this proposal would add to what the funding formula committee did. Representative Clow said that those committees looked at how the funding was distributed but classified staff was not discussed. It never examined how many people were needed in the school district to support the district.

Senator Lent said that this request is very timely since the funding formula work will start again this summer.

Representative Berch asked committee members to what extent the State Board of Education should be doing this project instead of OPE.

Representative Nilsson Troy said she does not know the State Board of Education's responsibilities necessarily, but that JLOC has a history of requesting evaluations that could be done internally by the agency. For example, JLOC requested that OPE evaluate the opportunity scholarship. JLOC has been known to bypass the board in the past, although the board would need to participate in the evaluation.

Senator Nelson asked whether Representative Clow was interested in regional or national salary comparisons. Representative Clow said the state should examine what other states are doing but also what Idaho needs. Representative Clow expressed being fearful of what the evaluation finds as it pertains to cost but stressed the importance of having the information. Representative Clow said that states like Massachusetts and Connecticut would not be great comparisons because they have different needs than Idaho. Representative Clow expressed that he does not know what the evaluation will find.

Senator Nelson said that he agrees that the topic is important and would like to see comparisons to neighboring states that could compete for Idaho's staff.

Consolidated trial courts

Cochair Harris invited Senator Lee to present the request related to the consolidation of trial courts. Senator Lee said that OPE's work has informed policy and thanked JLOC and OPE staff for their service. Senator Lee is bringing the request with Representative Nilsson Troy. The courts are increasingly stressed for funding and face barriers to asking the Legislature for what they need. Senator Lee explained Idaho's existing court system and compared that to Utah's. There are concerns about the efficiency of having separate magistrate and district judge positions, as well as concerns about the accountability in having retired judges continue to serve on the bench without elections. Senator Lee said that OPE can act as a neutral broker in going to the courts to work on this. Committee members did not have any questions for Senator Lee.

Water resources

Cochair Harris invited Representative Nilsson Troy to present the request related to water resources. Representative Nilsson Troy said that she loves this committee and presenting different options like natural resources. There has not been a wholistic look at what is going on in the state as it pertains to water resources, including the role of the judiciary. Representative Nilsson Troy described several changing challenges Idaho faces and current adjudications in process. The evaluation would examine water usage, supply, and storage capacity.

Senator Stennett expressed interest in water resources. Idaho is the highest consumer per capita of beneficial water and has the second highest use for agriculture. Senator Stennett discussed the breadth of water issues and asked whether the evaluation would cover metering or other accountability for water use.

Representative Nilsson Troy said that the drought plan has not been updated in more than two decades. Rather than be prescriptive, Representative Nilsson Troy said that she would like to ensure that whatever OPE does is in concert with the water resource board and water department so the evaluation is helpful.

Representative Amador said that Idaho is built off the legacy of gold and silver, but the next gold is water. The more we can understand water, the better position the state will be in.

Cochair Rubel said that the current use does not seem tenable with Idaho's high population growth.

Representative Berch asked that there be more guidance for OPE in the request.

Senator Nelson said that water is at risk with climate change. The state needs to consider where snowpacks will be and other issues.

Representative Nilsson Troy said that dams play an important role in water storage as well.

Wildfire management

Representative Nilsson Troy presented a study request on wildfire management. Idaho has focused a lot of effort towards fire prevention and suppression, but the state also needs to understand management. Representative Nilsson Troy discussed the good neighbor authority and progress on forest overgrowth. The state has not protected water sheds as well as it has protected lives and property. There is not a coordinated response to recovery afterwards. Representative Nilsson Troy expressed interest in learning what the state is doing for fire prevention, suppression, and especially recovery.

Cochair Harris said that jurisdiction is also important.

Senator Stennett discussed the high cost of clearing when necessary and the good neighbor authority. Another concern is the public education component to prevent fires. Getting seeds for restoration is incredibly difficult. There are a lot of agencies involved with this complicated issue. Senator Stennett asked for clarification on whether Representative Nilsson Troy would like to focus on restoration or suppression.

Representative Nilsson Troy discussed many other challenges and opportunities related to fire prevention and recovery. For example, grazing and supporting nurseries may be opportunities while jurisdiction and the complexity of grants are challenges. There are a lot of available resources, but that information needs to be pulled together. The evaluation could allow legislators to wrap their heads around current policies for fire prevention and recovery.

Representative Berch asked whether it would be appropriate to have this scope include the cost and projected costs included in this request.

Representative Nilsson Troy said that the Department of Lands is currently working on some estimates related to the cost of not stopping a fire early. The evaluation could compliment that work.

Selection of topics

Rakesh and members of the committee discussed OPE capacity with existing follow-up evaluations. Representative Nilsson Troy said that she is not sure if the water study is as urgent as some of the others even though it is an important topic.

The committee voted on their preferred evaluation topics. After ballots were tallied, the three topics with the highest support were direct care workforce, classified K-12 staff, and consolidated trial courts.

Representative Nilsson Troy motioned to have OPE conduct an evaluation of the direct care workforce, classified k-12 staff, and consolidated trial courts. Senator Stennett seconded the motion, and it passed by voice vote.

The meeting adjourned at 9:10 a.m.