

Minutes of the Joint Legislative Oversight Committee

March 13, 2018

Room EW42, Capitol, Boise, Idaho



Cochair Senator Cliff Bayer called the meeting to order at 7:30 a.m. Attending the meeting were Senators Mark Harris, Michelle Stennett, and Cherie Buckner-Webb, Representatives Mat Erpelding (cochair), Maxine Bell, Caroline Nilsson Troy, and Elaine Smith. Also present were Rakesh Mohan, director, and other OPE staff. Audience members included the following:

Senators Abby Lee and Dan Johnson
Representative Lance Clow
Kathie Garrett, Idaho National Alliance on Mental Illness
Jim Baugh, DisAbility Rights Idaho
Mel Leviton, State Independent Living Council
Christine Pisani, Idaho Council on Developmental Disabilities

Approval of prior meeting minutes

Senator Buckner-Webb moved to approve the minutes from meetings on January 29, 2018, and February 5, 2018. Representative Erpelding seconded the motion, and it passed by voice vote.

Presentation and selection of evaluation requests

Rakesh said seven requests had been submitted from 18 legislators, including leadership in both the House and the Senate. Cochair Bayer called on requesters to present their request to the committee.

Wireless internet filtering at public libraries

Representative Clow said his request was intended to ensure libraries were complying with Chapter 27 of Title 33, Idaho Code. This statute directed public libraries to ensure minors were not able to access pornography and other obscene material at libraries. Because wireless internet was not addressed in Idaho Code, he said libraries might not be blocking obscene material on wireless networks and physical computers. Representative Clow said he hoped the study would identify whether libraries were in compliance, and if not, the cost to bring them compliant.

Senator Stennett said that some literary classics had obscene material. She asked whether those classics should be distributed through public libraries. Representative Clow said he did not consider those as falling under obscene material and was only interested in looking at pornography and obscene material distributed via the internet.

Representative Erpelding asked whether Representative Clow had met with the Idaho Library Association. Representative Clow said he did not reach out to the association, but he had heard from the association that it thought the cost would be prohibitive. The association had testified that while it did not want obscene material reaching children, it did not believe libraries had a problem.

Representative Troy said she had talked with a Latah County library trustee who said all the county's computers were filtered. The county did not filter wireless internet so it would not be

restricting speech on social networking sites. Representative Troy said that parents who want filtered internet for their children should have their children use one of the library's public access computers. She said her library system was concerned that changing policy would infringe on first amendment rights. She asked Representative Clow whether he had any comments. Representative Clow said he thought the library should be a safe place for children. Adults had the right to do what they wanted.

Chained consumer price index

Senator Johnson said the consumer price index (CPI) used by the state considered the upper bound on cost of living statistics. The chained CPI was a newer measure and supplemented the existing index by reflecting the impact of substitution among goods and better reflected the cost of living. Idaho government used the CPI in several areas, and it was referenced in at least nine statutes. Chained CPI could replace the CPI as a closer approximate to cost of living indices than other CPI measures. The study could be used to benefit the state and calculate future savings.

Collecting court fines and fees

Senator Lee said her request came from her work on the Senate Judiciary and Rules Committee and the Joint Finance-Appropriation Committee. The Legislature had recently been replacing nonviolent misdemeanors with infractions. These infractions came with court fines and fees that were difficult to collect, particularly in rural areas. Canyon County had \$33 million in uncollected fines and fees. With the courts needing general fund support, Senator Lee said it was time to look at how fines and fees were collected. Courts may better collect fines and fees using the state's new data management system, Odyssey. But counties had trouble complying and coordinating with the new system. She asked who was responsible for collecting fees—the courts or the counties. If counties were not collecting fees, what was the punishment for breaking the law? Judges could waive civil filing fees to create more access to the courts. This money, however, was used to keep the judicial system functioning.

Representative Erpelding said Odyssey involved criminal cases and asked if it also included civil cases. Senator Lee said the system would be used for both and would have information on civil fees in three or four years. Representative Erpelding asked why three to four years. Senator Lee said that Odyssey had not been rolled out statewide, and staff were looking at how to collect data. This study could help the courts identify best practices and other information needed to begin collecting data statewide. Senator Lee said she had asked the courts for information on the success of different counties in collecting fines and fees. She said she found no statewide perspective or information to answer that question—there was an information gap.

Senator Stennett said the Legislature has been talking recently with the courts about court fines and fees. Historically, counties had the ability to prioritize the collection of court fines and fees themselves, but now they were mandated to follow legislative priorities. She asked whether Odyssey would give counties flexibility. Senator Lee said that Odyssey would lock counties into prioritization policies. Once counties were required to collect fines or fees, how would counties get offenders to pay? She said Idaho did not have a good mechanism to see whether fines and fees were being collected.

Southwest Idaho Treatment Center

Senator Buckner-Webb asked if the director of the Idaho Council on Developmental Disabilities, Christine Pisani, and the executive director of the State Independent Living Council, Mel Leviton, could present the request. Cochair Bayer called on Ms. Pisani and Ms. Leviton. Ms. Pisani said several members of the Consortium of Developmental Disabilities were concerned about complaints of abuse and neglect at the center. The center's license was revoked last year, and a subsequent review still found the center out of compliance. She said consortium members

were not happy with the role and informed consent of guardians. Members wanted to receive an objective opinion about whether a conflict of interest existed in having the licensing body and the center report to the same director. Ms. Leviton said members had worked with the department for the past 18 months.

Senator Stennett asked about the new facility being built on the same grounds as the center. Ms. Pisani said the treatment facility was secured with four beds to meet the needs of those dually diagnosed with mental illness and developmental disabilities. The secured facility would be under a separate license but operated by the same staff. Residents of the new facility have had challenges with medication management or were placed in the facility by the courts because of criminal activity.

Legislative mandates on local governments

Representative Troy said her request was large and may need to be broken into pieces. She expected the evaluation would be ongoing. She said she had been in epic committee battles with Representative Moyle on impacts to local units of government. The Legislature had high expectations of local units of government without a comprehensive understanding of how it would be done. She said Clark County had 816 residents and was being asked to do the same thing as Ada County—to have a vibrant court system and roads. She wanted to know the impact on cities, counties, schools, and highway districts.

Investigating allegations of child neglect and Correctional Industries

Cochair Bayer directed the committee to read requests on investigating allegations of child neglect by Representative Luker and Correctional Industries by Senators Hagedorn and Anthon. He then asked Rakesh about the balloting process. Rakesh indicated committee members should select their top four requests, without ranking.

Office staff tabulated the votes and the overall votes were displayed on the screen. Collecting court fines and fees had 8 votes, Southwest Idaho Treatment Center 7 votes, legislative mandates on local governments 6 votes, investigating allegations of child neglect 5 votes, chained consumer price index 4 votes, and Correctional Industries and wireless internet filtering each had 1 vote. Rakesh said that the office could take five projects if the committee clearly prioritized. Senator Buckner-Webb said that rather than take five, the office should take the top four. Cochair Bayer asked whether the motion would prioritize them as listed. Rakesh indicated it would be better to set priorities separately.

Senator Buckner-Webb moved that the committee should accept the top four studies as shown on the screen (collecting court fines and fees, Southwest Idaho Treatment Center, legislative mandates on local governments, and investigating allegations of child neglect). Senator Stennett seconded the motion, and it passed by voice vote.

Rakesh asked for priorities. Senator Stennett said some of the projects would take more time and asked Rakesh which were the biggest projects. Rakesh said legislative mandates would be the biggest, but court fines and fees could have some challenges. Cochair Bayer said different studies have different scopes and resource needs, and unless any projects were time sensitive, he was willing to leave prioritization up to the office. Representative Troy said the Southwest Idaho Treatment Center would drive policy more quickly than the other projects and suggested it be prioritized over the others. The committee decided to leave prioritization up to the office.

Other committee business

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Rakesh said OPE had one more report on the Commission of Pardons and Parole to release this session and a follow-up on the Design of the Idaho Behavioral Health plan report.

The meeting adjourned at 8:24 a.m.