MINUTES

SENATE HEALTH & WELFARE COMMITTEE

DATE:	Tuesday, February 02, 2016
TIME:	3:00 P.M.
PLACE:	Room WW54
MEMBERS PRESENT:	Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Martin, Lee, Harris, Schmidt and Jordan
ABSENT/ EXCUSED:	None
NOTE:	The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:02 p.m. **Chairman Heider** indicated his preference that the Committee gather information regarding **S 1204** and **S 1205** during today's meeting and not hold a vote on these bills until the Committee has had the opportunity to hear the alternate proposal to care for the gap population as developed by the Governor's Office and the Department of Health and Welfare.

RS 24067 **Relating to the Advanced Practice Registered Nurse Compact**. **Sandra Evans**, Executive Director of the Idaho State Board of Nursing, presented this RS.

Ms. Evans stated that the purpose of this RS is to adopt the Advanced Practice Registered Nurse (APRN) Compact, an interstate compact for multistate licensure, which facilitates cross-border practice (APRN Compact). An APRN is an RN with graduate or post-graduate education in nursing who is prepared with advanced knowledge and skills to practice in the role of certified midwife, clinical nurse specialist, nurse practitioner or registered nurse anesthetist. **Ms. Evans** reported that Idaho adopted and implemented the Nurse Licensure Compact for RNs and LPNs in 2001; the compact has proven to be an effective way to reduce unnecessary regulatory barriers to the delivery of health care, including telehealth. APRNs are not included in the Nurse Licensure Compact. **Ms. Evans** stated that the APRN Compact would allow an APRN to have one multistate license that permits practice in other APRN Compact member states. She noted, however, that each state would retain regulatory autonomy through its standards of conduct for practice within its borders. **Ms. Evans** reviewed the eleven articles of the APRN Compact with the Committee. She stated that the proposed legislation will have minimal fiscal impact on the dedicated fund maintained by the Board of Nursing.

Chairman Heider asked the members if they had any questions.

Senator Martin asked how the APRN Compact will increase the provision of telehealth services in Idaho. **Ms. Evans** stated that the practice of nursing takes place at the location of the recipient of care, not the location of the provider of care. The APRN Compact was designed the facilitate cross-border practice of nursing.

Senator Hagedorn asked, if an APRN is registered in another state, how will the Idaho Board of Nursing find out about potential licensure concerns. **Ms. Evans** stated that the APRN Compact requires participation in a centralized information exchange system established through the National Council of State Boards of Nursing. Through this system, participating Boards of Nursing can share licensure information and investigatory and disciplinary information. Idaho could take disciplinary action against the privilege to practice in Idaho. **Senator Hagedorn** asked how the APRN Compact addresses formularies. **Ms. Evans** stated that the APRN Compact is silent on the issue. She noted that in Idaho, APRN's prescribing authority is based upon their educational preparation, demonstrated competence, and relationship to specialty area.

MOTION: There being no more questions, **Vice Chairman Nuxoll** moved to send **RS 24067** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

RS 24056 **Relating to the Nurse Licensure Compact**. **Sandra Evans** presented this RS.

Ms. Evans stated that the purpose of this RS is to adopt the new enhanced Nurse Licensure Compact to replace the current compact. The enhanced compact is an amended version of the current compact, of which Idaho has been a member since 2001. **Ms. Evans** stated that the Nurse Licensure Compact creates a regulatory process that permits nurses to practice freely among participating states on the license issued by their primary state of residence without the need to hold additional licenses in those other states. **Ms. Evans** discussed the successes of the current Nurse Licensure Compact, but noted that membership had stalled at 25 states. Enhancements were made to the current compact to encourage adoption by more states and thereby increase access to quality nursing care nationwide. **Ms. Evans** reviewed the enhancements to the Nurse Licensure Compact, including (i) incorporation of uniform licensure requirements, (ii) clarification of the role and relationships of the compact governing body, (iii) clarification or processes for rulemaking based on provisions of the Model Administrative Procedures Act, (iv) oversight and enforcement of the compact and (v) grandfathering nurses who hold a multi-state license at the time of transition to the enhanced compact. She noted that, once implemented, the enhanced Nurse Licensure Compact provides for the withdrawal from the current compact. **Ms. Evans** reported that the proposed legislation will have minimal fiscal impact on the dedicated fund of the Board of Nursing.

Chairman Heider asked the members if they had any questions.

Senator Schmidt asked Ms. Evans if the enhanced compact had a section for repeal of the existing compact. **Ms. Evans** responded yes and directed Senator Schmidt to Article 10 of the enhanced compact and noted that sections 1 and 2 of the proposed legislation provide for the repeal of the existing compact and replacement by the enhanced compact.

Vice Chairman Nuxoll asked whether these types of compacts have similar wording. **Ms. Evans** responded yes.

MOTION: There being no more questions, **Senator Martin** moved to send **RS 24056** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 24058 **Relating to the Definition of Nursing**. **Sandra Evans** presented this RS.

Ms. Evans stated that the current definition for the "practice of nursing" is outdated and is no longer descriptive of today's practice. The purpose of the RS is to update the definition of the "practice of nursing" to more clearly articulate the depth and breadth of what constitutes nursing practice. **Ms. Evans** stated that the proposed legislation has no fiscal impact.

Chairman Heider asked the members if they had any questions.

Senator Martin asked whether the last sentence of the RS was related to telehealth. **Ms. Evans** responded that the Board of Nursing wanted to clearly articulate a provision of the Telehealth Access Act and confirm that the practice of nursing occurs at the physical location of the recipient.

MOTION: There being no more questions, **Senator Lodge** moved to send **RS 24058** to print. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

S 1204 **Relating to Medicaid**. **Senator Dan J. Schmidt** presented this bill together with **S 1205**.

S 1205 **Relating to Medical Assistance**. **Senator Dan J. Schmidt** presented this bill together with **S 1204**.

OPENING REMARKS: **Senator Schmidt** stated that his goals for today's meeting were to have a discussion and to address the Committee's concerns about this public policy choice. **Senator Schmidt** commented that he will honor the role of the Committee and the role of the Senate as this discussion takes place. **Senator Schmidt** stated that **S 1204** is a bill that directly reflects the recommendation of the health care workgroup that Senator Schmidt served on, which also made a recommendation to the Governor. **Senator Schmidt** stated that **S 1205** is a recommendation from another health care workgroup that Chairman Heider worked on that made an alternate recommendation to the Governor. Upon Senator Schmidt's request, **Chairman Heider** invited Dr. Ted Epperly to speak on behalf of **S 1204** and **S 1205**.

Dr. Ted Epperly, a family physician, Chief Executive Officer of the Family Medicine Residency of Idaho and Chairman of the Idaho Health Care Coalition that oversees Idaho's State Health Care Innovation Plan, discussed **S 1204** and **S 1205** with the Committee. **Dr. Epperly** also noted that he served on both of health care work groups convened by the Governor.

First, **Dr. Epperly** applauded Governor Otter for continuing to seek solutions for those who fall into Idaho's health care coverage gap. When Governor Otter first convened the Medicaid Redesign Work Group in 2012, he charged the group to study and determine whether Idaho should accept Medicaid expansion funds as set forth in the Affordable Care Act to provide coverage for Idahoans earning less than 138 percent of the federal poverty level. **Dr. Epperly** stated that the workgroup studied a broad range of information, including (i) an overview of the gap population, their demographics and their health needs, and (ii) actuarial analyses of costs and savings to the State both if Idaho accepted Medicaid expansion or rejected expansion and continued its indigent programs. After considerable analysis and discussion, the workgroup voted unanimously to recommend that Idaho accept Medicaid expansion.

Second, given the lack of legislative interest in Medicaid expansion under the Affordable Care Act, **Dr. Epperly** said the Governor reconvened the work group in 2014 and charged the group to study alternative plans being put forward by other states because the Centers for Medicare and Medicaid Services (CMS) had shown unprecedented flexibility towards states that wanted to cover their gap populations but structure their programs differently. **Dr. Epperly** said that the work group studied a number of different waiver models but ultimately developed its own hybrid waiver model with the following key objectives: (i) retain individuals earning 100 to 138 percent of the federal poverty level (FPL) in private coverage through Idaho's health exchange, (ii) place individuals earning below 100 percent FPL in Medicaid managed care incorporating health behavior incentives and the maximum personal responsibility in this form of cost sharing, (iii) encourage access for patients to a usual source of care through the primary care models of the patient-centered medical home and direct primary care, (iv) create a discontinuation provision to protect Idaho if Congress decided to shift more of the burden to the states beyond the 10 percent maximum set by the Affordable Care Act and (v) provide for ongoing

dialogue with CMS to ensure that Idaho's waiver plan would be accepted once approved by the Idaho Legislature.

To summarize, **Dr. Epperly** stated that **S 1204** represents the workgroup's first recommendation in 2012: straight Medicaid expansion pursuant to the Affordable Care Act. He said **S 1205** represents the workgroup's second recommendation in 2014: the Healthy Idaho Plan, which is a hybrid private-option model developed in Idaho, by Idahoans, for Idahoans. **Dr. Epperly** reviewed the key differences between **S 1204** and **S 1205**. Both bills eliminate the State Catastrophic (CAT) Fund and the County Indigent Fund because the individuals served under these programs would receive Medicaid coverage saving the State approximately $55 million per year. Both bills would provide patients the full range of essential health benefits, including primary care, prescription medications, diagnostics, behavioral health care, specialty care, emergency room utilization and hospitalization when necessary. **Dr. Epperly** stated that **S 1204**, the straight Medicaid expansion model, would pull individuals earning from 100 to 133 percent of the FPL who are currently in private exchange plans into Medicaid, while **S 1205** would keep these individuals in the private exchange plans.

Utilizing $40 million of grant funding received for the State Healthcare Innovation Plan (SHIP), **Dr. Epperly** said Idaho has been transforming its health care system to better provide accessible, integrated and coordinated primary care through the development and scaling of the patient-centered medical home concept. According the Commonwealth Fund, two things drive better health care outcomes for populations of people: (i) a usual source of care and (ii) some type of insurance coverage. **Dr. Epperly** informed the Committee that **S 1205** will provide the comprehensive insurance coverage that will align with the SHIP transformation of our primary care system to provide a usual source of care.

In closing, **Dr. Epperly** said he hopes the Committee votes to send **S 1205** – the Healthy Idaho Plan – to the floor with a do pass recommendation. This plan represents three years of hard work by Idaho experts on the Governor's workgroup and it represents a tremendous opportunity to save taxpayer dollars by leveraging Idaho's share of federal dollars back to the State and eliminating wasteful county and State programs that would no longer be necessary. **Dr. Epperly** suggested that an even better reason to pass **S 1205** would be to save and improve the lives of low-income, working Idahoans who fall into the health care coverage gap.

Chairman Heider asked the members if they had any questions.

Senator Hagedorn asked if there were enough doctors available in Idaho to accept the new Medicaid patients that would be enrolled as a result of these bills. **Dr. Epperly** responded yes. Acknowledging a shortage of primary care physicians, **Dr. Epperly** suggested that nurse practitioners and physicians assistants would need to become part of the solution. He said Idaho has an expanded workforce that could care for Idaho's population, but Idaho would still need to continue to build out the primary care workforce. **Dr. Epperly** reiterated that Idaho has enough providers.

Chairman Heider asked Dr. Epperly to explain the major differences between **S 1204** and **S 1205** and the Governor's primary care access program. **Dr. Epperly** responded that **S 1204** and **S 1205** provide comprehensive insurance coverage – all services that a person may need. He said the Governor's proposal will only provide limited primary care. This means that the Governor's proposal will provide a usual source of care, but he suggested that it will not go far enough to cover the needs of Idahoans. Discussing the funding differences, **Dr. Epperly** noted that **S 1204** and **S 1205** will save Idaho roughly $25 million to $35 million per year. Whereas the Governor's proposal will cost $30 million to implement and will not end the County Indigent Fund or the CAT Fund. In aggregate, the Governor's proposal will cost the state $85 million. **Dr. Epperly** added that Medicaid expansion would

bring $577 million to Idaho over 10 years. He said that is roughly $57 million per year in addition to the cost savings, which would result in a positive economic impact of approximately $1 billion per year to the economy of Idaho.

TESTIMONY: **Chairman Heider** invited further testimony.

Dr. Kenneth Krell, a physician from Idaho Falls, testified in support of **S 1205**. **Dr. Krell** stated that he sees emergency room patients almost daily who present with end stage disease because they were not able to get medical care when their disease process might have been arrested. He commented that, as a result, many of these patients are left severely injured or die. **Dr. Krell** indicated that a *New England Journal of Medicine* study found that the failure to expand medicaid costs 19.7 lives per 100,000 in population, an estimated 324 lives per year in Idaho. **Dr. Krell** related the story of his patient, Jenny Steinke, who died of complications from asthma. He said Jenny's case exemplifies what is wrong with Idaho's health care system. In closing, **Dr. Krell** requested the Committee consider approving Medicaid expansion for Idaho.

Mayor David Bieter, mayor of Boise, testified in support of the Healthy Idaho Plan. He believes health care is the most important public policy issue before the Legislature. **Mayor Bieter** discussed three gaps that affect citizens. First is the gap that leads to 78,000 citizens not having health insurance coverage. He said they are one diagnosis away from a catastrophe because they either don't seek medical services or don't have the money to pay for medical services. Second is the economic activity gap. He indicated that the Kaiser Foundation estimated that $3 billion and 11,000 jobs will not occur without the expansion of Medicaid. **Mayor Bieter** stated that without $3 billion of activity, Idaho's competitiveness is going to be compromised. Third is the gap between our beliefs and our actions. Thousands of people suffer without this coverage. He suggested that Idahoans have a moral obligation to do what we can to lessen or eliminate suffering. In closing, **Mayor Bieter** stated that this is an Idaho law, for Idahoans, by Idahoans.

Mike Brassey, representing St. Luke's Health System, testified in support of **S 1205** – the Healthy Idaho Plan. He stated that this legislation was developed by health care professionals over an extended period of time and it is designed to work for the State of Idaho. **Mr. Brassey** urged the Committee to support the legislation.

Fred Birnbaum, Idaho Freedom Foundation, testified in opposition of **S 1204** and **S 1205**. **Mr. Birnbaum** referenced a provision in the proposed legislation that would allow the State to repeal Medicaid expansion if the federal government reduces its contribution percentage. He argued that, based upon the U.S. Supreme Court decision in *NFIB v. Sebelius*, the State would be unable to repeal Medicaid expansion without threatening all federal Medicaid dollars it receives. Next, **Mr. Birnbaum** referenced the assertion by supporters that Medicaid expansion would result in cost savings to the State. **Mr. Birnbaum** stated that it is unreasonable to presume that the federal government can continue to fund 90 percent of Medicaid expansion costs into perpetuity. Further, **Mr. Birnbaum** asserted that, instead of saving money, Medicaid expansion would ultimately cost the State more money than estimated. He pointed to the experiences of other states. He said that, due to higher than expected enrollments, Ohio exceeded its Medicaid expansion budget by $1.5 billion during the program's first 18 months and Washington exceed its Medicaid expansion budget by $2.3 billion. In closing, **Mr. Birnbaum** discussed a *New England Journal of Medicine* study that showed that Medicaid expansion did not improve health outcomes. Referencing Mr. Birnbaum's comments related to other states' cost overruns due to higher than expected enrollments, **Senator Jordan** asked what actuarial data those states used. Specifically, how did these states make their enrollment estimates and how did they exceed their enrollment estimates? **Mr. Birnbaum** indicated that he only had the data regarding the actual

cost overruns and did not have information regarding the estimating methodologies used by the states.

Michelle Gluch testified in support of **S 1205** – the Healthy Idaho Plan – and shared her family's story of living without health insurance (see attachment 1). She stated that her husband is chronically ill. Despite working and returning to college to find a better career, her husband's health care requirements have left them in $60,000 of medical debt. She noted that many of her friends fall into Idaho's health care gap. They are waitresses, care providers, construction workers, adjunct faculty and store clerks; they are the people who keep Idaho running but they live in the gap and are denied the most basic of medical care. **Ms. Gluch** requested that the Committee consider the Healthy Idaho Plan, so that the working poor can have dignity and control over their own health and financial futures.

Jim Baugh, Executive Director of DisAbility Rights Idaho, testified in support of **S 1204** and **S 1205** (see attachment 2). **Mr. Baugh** began by stating that, contrary to popular opinion, not all Idahoans with disabilities who live in poverty are eligible for Medicaid or other health insurance programs. First, **Mr. Baugh** stated that people with severe and persistent (chronic) mental illness live in the health care gap. They need more than primary care; they need specialty care, hospitalization and coordinated care. Second, **Mr. Baugh** stated that people who acquire a progressive condition like cancer or some other illness can no longer work and usually apply for social security disability benefits. If a person's benefits are more than $734 per month, he is disqualified from medicaid. Additionally, these individuals cannot qualify for Medicare for two years. **Mr. Baugh** referenced a recent study that found that 42 percent of the individuals accessing county indigent care services were individuals who qualified for social security disability benefits but were waiting for Medicare coverage to become effective. In closing, **Mr. Baugh** reminded the Committee that tens of thousands of people with severe disabilities do not have any form of health insurance coverage.

Yvette Ashton, volunteer with AARP Idaho, testified in support of **S 1205** (see attachment 3). **Ms. Ashton** stated that AARP Idaho is a nonprofit, non-partisan organization that represents 177,000 members across the State. They are helping older Idahoans have independence and control over their lives. She stated that there are more than 26,000 Idahoans ages 50-64 who are currently in the health care coverage gap. Many of these individuals are AARP members and they have lost their jobs, but they are still trying to find new ones. In closing, **Ms. Ashton** stated that Idahoans who have access to health services can be productive members of the workforce, focus more time on their family and have income and resources to put back into the economy.

Bonnie Markham, an Idaho citizen, testified in support of **S 1205** – the Healthy Idaho Plan. **Ms. Markham** stated that she is a single working mom who is studying for a masters degree in social work. She is one of the 78,000 Idahoans living in the health care coverage gap. **Ms. Markham** discussed her financial circumstances and noted the difficulty in making ends meet. She had to stop taking many of her medications because she cannot afford them. **Ms. Markham** stated that she values hard work. She works a job, attends Northwest Nazarene University and participates in two internship programs. But she gets discouraged when she works as hard as she can, and she still cannot afford basic health insurance. In closing, **Ms. Markham** indicated that the State of Idaho must do something to help people become healthy, contributing citizens.

Jon Brown, a retired methodist minister, testified in support of **S 1205** (see attachment 4). Noting that he has a daughter who has paranoid personality disorder and a grandson who is autistic, **Mr. Brown** related his experiences with health care in Idaho. He commented that people in the health care gap are our cousins, daughters and grandsons, and they are a part of our community. He noted that they are people who suffer from chronic pain, from arthritis, from work-related injuries, opiate abuse/overdose, alcoholism and liver disease and suicide. In closing, **Mr. Brown** related the Biblical story of Dives and Lazarus.

Tom Lamar, a Latah County Commissioner, testified in support of **S 1205** (see attachment 5). **Commissioner Lamar** stated that the taxpayers of his county pay approximately $550,000 annually to provide medical care to people who have no insurance. The remainder of these individuals' medical costs not covered by the county is passed along to the CAT Fund to be paid by all Idaho taxpayers. This process is repeated throughout the other 43 counties. **Commissioner Lamar** stated that with the passage of **S 1205**, the county indigent program and the CAT Fund could be repealed, thereby providing property tax relief to county and State taxpayers. In closing, **Commissioner Lamar** indicated that the Legislature should close the health care gap and build a healthy, compassionate Idaho.

Dr. Bruce Belzer, a family physician in Boise and President-Elect of the Idaho Medical Association, testified in support of **S 1205** – the Healthy Idaho Plan. **Dr. Belzer** showed the Committee a newspaper article he brought with him regarding the death of Dr. Krell's patient, Jenny Steinke. He stated that he was saddened and angered by Ms. Steinke's death. Unfortunately, **Dr. Belzer** commented that every physician in Idaho could tell story after story of patient after patient who falls into the health care gap and who has critical and chronic care needs that are not being met. **Dr. Belzer** related the story of one of his patients who had developed chronic obstructive pulmonary disease. He said she worked two jobs, had no insurance, and refused to seek medical assistance because her moral code did not allow her to incur debt she couldn't pay. Dr. Belzer asked her to let him help her despite her inability to pay for his services. Eventually, his patient spent 10 days in the hospital's intensive care unit because she did not seek ongoing treatment. In closing, **Dr. Belzer** stated that there is no wrong time to do the right thing. **S 1205** is the right thing to do. **Senator Hagedorn** commented that for the last ten years, Idaho has been 49th in the nation for doctors per capita, 46th in the nation for primary care physicians per capita, 48th in the nation for OBGYN physicians per capita, and sixth in the nation for population growth. He asked Dr. Belzer if the Legislature passed **S 1205**, how would Idaho's physicians be able to provide the necessary services for Idaho's growing population. **Dr. Belzer** said he believes it can be done. He said the State would need to maintain the WAMI and residency program to fill the pipeline. **Dr. Belzer** said that if the Legislature provides the opportunity, he believes physicians, nurse practitioners and the ancillary work force will rise to the opportunity and take care of these patients. **Senator Hagedorn** stated he believed if this were the case and were possible, those doctors that are no longer accepting Medicaid patients would find a way to do that now.

WRITTEN TESTIMONY: The following individuals and groups testified in support of **S 1205** – The Healthy Idaho Plan (see attachment 6):

1. Dr. Ingrid Brudenell;
2. Elinor Chehey;
3. Close the Gap Idaho;
4. Karleen Davis;
5. Dr. Scott Eliason, representing Boise Forensic Psychiatry;
6. Matt Forge, representing St. Mary's Hospital and Clinics;
7. Audrey Gatewood;
8. Penelope Hansen, representing the Boise Police Department;
9. Kerry Hong, representing the Community and Family Justice Services Division of the Idaho Supreme Court;
10. Mindy Hong, representing the Pocatello Free Clinic;
11. Po Huang;
12. Yvonne Ketchum-Ward, representing the Idaho Primary Care Association;
13. Kathryn McNary;
14. Liz Merrill;
15. Danielle Ryals, read by Christa Rowland;
16. Michael Sandvig, representing the National Alliance on Mental Illness - Idaho;
17. Neva Santos, representing the Idaho Academy of Family Physicians;
18. Corey Surber, representing Saint Alphonsus Health System; and
19. Idaho Voices for Children.

The following individuals and groups testified in support of **S 1204** and **S 1205** (see attachment 7):

1. Mike Baker, representing Heritage Health;
2. Sylvia Chariton, representing the American Association of University Women of Idaho;
3. Michael Traficante;
4. Lee Juan Tyler, representing the Fort Hall Business Council; and
5. Aaron Wilson, representing CHAS Health.

The following individuals testified as follows (see attachment 8):

1. Linda Anderson testified in support of Medicaid expansion;
2. Dr. Danielle Davies testified in support of affordable medication; and
3. Clella Steinke testified in support of closing the coverage gap.

CLOSING REMARKS: **Senator Schmidt** thanked the Committee for hearing the testimony regarding **S 1204** and **S 1205**. He stated that he serves on the CAT Fund, which reviews approximately 200 to 300 cases every two months and these cases are tragic. **Senator Schmidt** stated, however, that the Committee should not make public policy choices based on tragedy. He believes the Committee should make public policy choices based on good policy. He said tragedies do happen and if legislators can make good policy to prevent tragedies then that is their job. Referring to the opposition's argument that Idaho cannot afford to expand Medicaid because of the national debt, **Senator Schmidt** argued that the $500 million that would come back to Idaho under Medicaid expansion has not been saved, but rather these costs have been shifted to payments to private insurers. Referring to the State Healthcare Innovation Plan, **Senator Schmidt** commented that Idaho health care is moving in the right direction. He believes the Legislature has the foundation for good policy. He urged the Committee's support for this legislation, and asked them to consider sending **S 1205** to the floor with a do pass recommendation.

ADJOURNED: There being no further business, **Chairman Heider** adjourned the meeting at 4:31 p.m.

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Senator Heider
Chair

Karen R. Westbrook
Secretary