

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 12, 2018
TIME: 8:00 A.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Hagedorn, Senators Hill, Winder, Lodge, Vick, Anthon, Stennett, and Buckner-Webb
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 Siddoway** called the Senate State Affairs Committee (Committee) to order at 8:00 a.m. with a quorum present.

MINUTES APPROVAL: **Senator Stennett** moved to approve the minutes of February 12, 2018. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Hagedorn moved to approve the minutes of February 21, 2018. **Senator Buckner-Webb** seconded the motion. The motion carried by **voice vote**.

Senator Hill moved to approve the minutes of February 26, 2018. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

Senator Lodge moved to approve the minutes of March 7, 2018. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

H 638 CONTINUED **RELATING TO THE ABORTION COMPLICATIONS REPORTING ACT to require reporting of health complications related to abortions to the Idaho Department of Health and Welfare.**

Chairman Siddoway explained discussion would continue from the previous Committee meeting regarding **H 638**, reporting complications associated with abortions. He welcomed David Ripley.

David Ripley, Executive Director, Idaho Chooses Life, thanked Representative Chaney and Senator Martin for their leadership on this bill. He named other organizations that were instrumental in shaping **H 638** and have shown support throughout the process.

Mr. Ripley said he heard Idaho does not need this legislation because Idaho already has a reporting system. Abortion practitioners are required to report abortions they perform to the Idaho Department of Health & Welfare (IDHF). That law was enacted in 1977. Nowhere does the law require that complications to an abortion be reported – by the abortion practitioners or anyone that may treat such complications. IDHF included a table in its Annual Report reporting 9 complications out of 1289 abortions in 2016. **Mr. Ripley** stated his belief that this number is grossly misleading for the following reasons: 1.) IDHF does not have the statutory authority to require the disclosure of complications; Idaho Code § 39-261 does not mention complications; and 2.) Idaho Code § 39-261 is directed solely at abortion – most complications are not going to take place in the abortion practitioner's office, especially in this age of chemical abortions which are, in part, carried out at home.

In answer to Senator Winder's question regarding the collection of data, **Mr. Ripley** stated Idaho already collects extensive demographic data from abortion practitioners on women undergoing abortions. This has been ongoing since 1977 without legal challenge. **Mr. Ripley** referred to the loss of a ban on telemedicine abortions in federal court for lack of hard evidence that there are health risks associated with abortion. The only data available was from the Federal Drug Administration for the year 2011. This, or similar, legislation has been enacted by 12 states: Arizona, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Wisconsin, Wyoming, Louisiana, Mississippi, and Missouri. **H 638** has been modified due to work with the Idaho Medical Association (IMA) and the Idaho Hospital Association (IHA).

In response to a question regarding confidentiality, **Mr. Ripley** maintained this legislation would protect the anonymity of the woman. He stated tracking any particular woman's medical history will not be possible. Under this legislation, IDHF would only be responsible for managing and reporting the data. The Attorney General's Office did not raise an issue with this provision.

Mr. Ripley addressed other aspects of the bill (Attachment 1). He asked for the Committees' support for what he viewed as a landmark bill.

Senator Buckner-Webb asked if there were other post-medical procedures that require this type of reporting. **Mr. Ripley** was not aware of any. **Senator Buckner-Webb** asked if Mr. Ripley had consulted with medical professionals outside the group he is representing about their responses to this kind of reporting requirement on behalf of their patients. **Mr. Ripley** responded they met with representatives of the IMA and addressed their concerns. There were also conversations with the Idaho State Board of Medicine and the IHA to address their concerns.

Senator Buckner-Webb inquired if Mr. Ripley would share some of their concerns. **Mr. Ripley** indicated one of the more substantial concerns of the IMA involved the original idea of tracking the financial costs associated with treatment of post-abortive complications; that section was removed from this bill. The IMA was concerned about a challenge for vagueness. As a result, the list of complications is extensive. Another concern from the medical community was that not all doctors agree all of the complications on the list are abortion related. **Mr. Ripley** elaborated on the link between abortion and breast cancer. The language was altered to reflect the best medical judgement of the individual doctor based upon his/her understanding of the issues.

Kerry Uhlenkott, Legislative Coordinator, Right to Life of Idaho, stated she is in support of **H 638**. **Ms. Uhlenkott** said, with his permission, she will read a synopsis of Dr. Randy O'Bannon's germane points about chemical abortion complications. He made these points when he testified in Idaho in 2015 to support the webcam ban legislation. Dr. O'Bannon is the Director of Education and Research at the National Right to Life Committee (Attachment 2). In closing, **Ms. Uhlenkott** stated accurate and comprehensive reporting of abortion complications will be a huge step in helping protect women's health, and asked the Committee to vote for **H 638**.

Senator Stennett asked, given that men and women could have all the potential ailments listed in the bill, if Ms. Uhlenkott was comfortable with only women being profiled as this bill indicates. **Ms. Uhlenkott** answered in the affirmative since abortions are primarily concerned with women.

Senator Stennett asked where this information will be compiled; she inquired as to what other states do with this information. **Ms. Uhlenkott** stated her understanding is other states compile the information through their health and welfare departments. **Senator Stennett** asked what they are doing with the information. **Ms. Uhlenkott**

stated she could not answer that question.

Senator Buckner-Webb asked if this legislation is the result of the outcome of the telemedicine bill. **Ms. Uhlenkott** answered chemical abortions account for about half of all abortions performed in Idaho as well as webcam abortions. This legislation would serve as a follow up to identify any complications from those chemical abortions.

Senator Stennett referred to page 6, line 37 of the bill regarding the Legislature's right of intervention by concurrent resolution. She stated this legislation has been vetted; does that mean it is not in conflict with federal law. **Ms. Uhlenkott** deferred that question to the sponsor.

Mistie Tolman, Legislative Director for Planned Parenthood Votes Idaho (PP), testified in opposition to **H 638**. **Ms. Tolman** declared she was proud of the care PP consistently provides women, even in the face of accusations and threats. She referred to studies from scientific and medical journals indicating a vast amount of data regarding the high level of safety of abortions. **Ms. Tolman** named several organizations who provided this data.

Ms. Tolman stated PP follows rigorous medical standards and guidelines, and supports medical practices based on sound science and research. She asserted the reporting outlined in **H 638** is not representative of complication reporting for any other medical procedure. She emphasized such reporting should be collected through high-quality medical and social science research and peer-reviewed studies, not government forms. **Ms. Tolman** reported Idaho already requires reporting of serious complications resulting from abortion, and she discussed the complication and mortality rates compared to other medical procedures.

Julie Lynde, Policy Director, Family Policy Alliance of Idaho, testified in support of **H 638**. **Ms. Lynde** voiced concern for women who must confront the decision regarding an abortion. She perceived this reporting as being important to provide a better understanding of what can be expected, should they choose to have an abortion.

Senator Stennett inquired of Representative Chaney why he felt there would be minimal fiscal impact on the Idaho Department of Health and Welfare (IDHW). **Representative Chaney** replied the number reported was low, so there would be minimal fiscal impact. **Senator Stennett** referred to the increase in information the IDHW will be compiling, and she asked if they had been consulted regarding the fiscal impact. **Representative Chaney** answered the IDHW contacted him and advised they may need an additional FTP.

Representative Chaney reiterated this process is for data compilation, not a research study. He noted it would give public health officials additional information to consider in decision making regarding underserved populations, problematic providers, and problematic procedures. He emphasized that data is nonpartisan, with no anti- or pro-abortion stance.

Elyse Durand submitted written testimony in opposition to **H 638** (Attachment 3).

MOTION:

Vice Chairman Hagedorn moved to send **H 638** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion.

Senator Stennett declared **H 638** proposes requesting information not allowed by HIPAA like race, age, and country of residence. She expressed concern regarding the constitutionality of the bill, and stated she would not support it.

The motion passed by **voice vote**. **Senator Stennett** and **Senator Buckner-Webb** voted nay.

HCR 52

STATING FINDINGS FOR THE LEGISLATURE rejecting certain rules of the Idaho Division of Building Safety.

Representative Dustin Manwaring, District 29, stated **HCR 52** proposes to reject three pending rules relating to Rules of Building Safety, **Docket No. 07-0301-1701**, **Docket No. 07-0401-1701**, and **Docket No. 07-0901-1701**.

Chairman Siddoway requested the content of the building codes. **Representative Manwaring** explained **Docket No. 07-0301-1701** dealt with Idaho building codes relating to tiny homes being more restrictive than codes published by the International Code Council, a situation in conflict with Idaho law. He stated **Docket No. 07-0401-1701** added standards regarding the Consumer Product Safety Commission. Concern was expressed over the language of this rule. **Representative Manwaring** related **Docket No. 07-0901-1701** needed to be rejected as it works in conjunction with the other two.

Brody Aston, Idaho Association of Building Officials, explained that **HCR 52** has been addressed in the Senate under **SCR 141** and **SCR 142**. He discussed the differences and reported that the House and the Senate have come to different conclusions regarding this matter. **Senator Hill** did not feel, considering the additional complications, that this should be heard in the Committee.

MOTION:

Senator Hill moved to send **HCR 52** back to the floor to be referred to the Commerce and Human Resources Committee. **Vice Chairman Hagedorn** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman Siddoway** adjourned the meeting at 8:55 a.m.

Senator Hagedorn
Vice Chair

Twyla Melton, Secretary

Carol Cornwall, Assistant Secretary