

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, February 11, 2019

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Souza, Senators Heider, Lee, Burtenshaw, Bayer, Jordan, and Nelson

ABSENT/ EXCUSED: Senator Harris

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 Martin** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:00 p.m.

RS 26788 **Relating to Health Benefit Plans ...** For Availability of a Twelve Month Supply of Contraceptives.

Senator Jordan stated this is a simple addition to Idaho Code, Title 41, Chapter 18. It would require health benefits to issue birth control prescriptions 12 months at a time for patients, unless it is determined in discussion with the doctor that the patient requires a shorter prescription. This enables patients to stay consistent in their use of birth control methods, and studies show this results in a significant reduction in unintended pregnancies.

DISCUSSION: **Vice Chairman Souza** asked if this is the same bill that was presented last year. **Senator Jordan** responded that it is essentially the same and they would like to print the bill and continue to work with the insurance companies and bring it forward for a hearing and get input from all parties. **Vice Chairman Souza** stated that she did not support the bill last year because she does not believe it is the role of government to tell businesses how to operate unless there is some seriously compelling public interest. She noted that prescriptions do not always work out long-term with metabolism changes and other medications that an individual may be taking, and insurance companies could be paying for medication that may or may not be used. She stated she would be more comfortable with a six-month prescription. **Senator Jordan** pointed out language in the bill that says the enrollee or prescriber can request a smaller supply. She indicated the most compelling public interest is the reduction of unintended pregnancies and abortion.

Senator Bayer stated that when speaking about contraceptives we need to look at the entire spectrum that is included in that terminology. It may in fact include abortifacients. **Senator Jordan** responded that the abortifacients referred to would require a separate appointment with the physician and prescription. This bill deals with contraceptives, meaning drugs, devices, and supplies approved by the Federal Drug Administration for use to prevent pregnancy, not to end a pregnancy. She stated that although many women are fortunate enough to have the ability and the means to address this on a more regular basis, there are a lot of women who do not, and this can be helpful to those women.

MOTION: **Senator Bayer** moved not to send **RS 26788** to print. **Senator Burtenshaw** seconded the motion.

SUBSTITUTE MOTION: **Senator Jordan** moved to send **RS 26788** to print. **Senator Nelson** seconded the motion.

DISCUSSION: **Senator Nelson** spoke in favor of the bill indicating he received numerous e-mails, and spoke to quite a few people in his district; all expressed support for this bill. **Senator Lee** commented that this appears to be the same bill that did not make it out of Committee last year and she would not support the motion to print.

VOTE ON SUBSTITUTE MOTION: **Chairman Martin** called for a roll call vote on the substitute motion. **Chairman Martin, Senators Heider, Jordan, and Nelson** voted aye. **Vice Chairman Souza, Senators Lee, Harris, Burtenshaw, and Bayer** voted nay. The substitute motion failed.

VOTE ON ORIGINAL MOTION: **Chairman Martin** called for a roll call vote on the original motion. **Vice Chairman Souza, Senators Heider, Lee, Harris, Burtenshaw and Bayer** voted aye. **Chairman Martin, Senators Jordan and Nelson** voted nay. The motion carried.

MOTION: **Chairman Martin** asked unanimous consent to move to the third agenda item, **RS 26836**. There were no objections.

RS 26836 **Relating to the CHILD Act.**

Kate Haas, of Kestrel West, stated this legislation creates the Children's Health Independence Learning and Development Fund, a new fund within the Department of Health and Welfare (DHW). The purpose of the fund is to help build life cycle skills of children in families of need in an effort to break the inter-generational cycle of poverty within those families. DHW would staff the program, and a review committee of experts would determine recipients.

DISCUSSION: **Senator Lee** commented that DHW is going through a transformation to modernize their information, and questioned how this is going to work with so many other items DHW has to focus on right now. **Ms. Haas** indicated they have been engaging with DHW to make sure this fits with their programs. She stated no funding request has been made for this year in order to give a year to implement and set up the program. She indicated this is not meant to supplant anything DHW is doing. It is intended to be a complement that really engages in public-private partnerships to connect DHW with great resources that are available. **Senator Lee** expressed concern with the fiscal note. She stated there should be something to acknowledge the members of the review committee.

In response to questions from Senator Heider and Senator Nelson, **Ms. Haas** indicated the reference in the bill to service providers, is to non-profit organizations that are solvent and in good standing with the Secretary of State. She indicated she would not have a problem if this were to be restricted to 501(c)(3) organizations.

Vice Chairman Souza commented this appears to set up a whole new kind of bureaucracy within the DHW and expressed concern about expanding government. She also expressed concern about a lack of fiscal note. **Ms. Haas** stated this is not intended to be an expansion of government and that most of the members of the review committee are subject matter experts in this field and would be acting in a volunteer capacity.

MOTION: **Senator Lee** moved not to send **RS 26836** to print. **Senator Burtenshaw** seconded the motion.

DISCUSSION: **Senator Lee** commented that she liked the idea of looking at prevention of inter-generational poverty, and would welcome ideas to see how this could be implemented, but does not feel this is the time to add this to DHW's workload.

VOICE VOTE: The motion not to send **RS 26836** to print carried by **voice vote**.

MOTION: **Vice Chairman Souza** asked for unanimous consent to send **RS 26849, RS 26735, RS 26754, RS 26830, RS 26825, and RS 26855** to print. **Senator Jordan** objected.

- RS 26849** **Relating to Health and Welfare ...** Regarding an Employment and Training Program.
- Senator Steven Thayn**, District 8, stated the purpose of this legislation is to help those individuals who are transitioning off of Medicaid with a short-term employment training program. In order to qualify for funding an individual would be required to work with a qualifying non-profit to create and follow a plan to get out of poverty.
- DISCUSSION:** In response to a question from Senator Lee, **Senator Thayn** advised that there is a federally funded employment training program for a period of 90 days after an individual comes off of food stamps, and this legislation would extend eligibility for those individuals for another three months under the state program.
- MOTION:** **Senator Harris** moved to send **RS 26849** to print. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.
- RS 26735** **Relating to Residential Care and Assisted Living Facilities ...** Option to Use a Private Sector Accrediting Organization for Inspections.
- Kris Ellis**, representing Idaho Health Care Association, stated this proposed legislation would allow assisted living facilities to contract with a private third-party accrediting agency who would perform the surveys or inspections of their facilities in lieu of the state surveys. This would take some of the burden off of the Department of Health and Welfare (DHW). She indicated they are 59 surveys behind at this time. **Ms. Ellis** added there is a \$10,000 upfront one time cost to DHW which would allow their IT vendor to redo their system in order to identify those facilities that use an outside accreditor instead of the state surveyor.
- MOTION:** **Vice Chairman Souza** moved to send **RS 26735** to print. **Senator Lee** seconded the motion.
- DISCUSSION:** **Senator Nelson** asked if DHW would be auditing these third-party accrediting organizations to ensure their methods are the same as those of the state. **Ms. Ellis** advised that the bill states that the accreditation commission standards shall meet or exceed the state requirements. She added that DHW will still survey if there is a complaint, or there are other reasons they feel a survey may be needed.
- VOICE VOTE:** The motion to send **RS 26735** to print carried by **voice vote**.
- RS 26754** **Relating to Health Benefit Plans ...** For Persons Enrolled in Clinical Trials.
- Emily Patchin**, representing Kootenai Health, presented on behalf of Caiti Bobbit, and stated that the purpose of this legislation is to ensure that when a patient is enrolled in a clinical trial, their routine patient care costs will be covered by their insurance plan. She stated that clinical trials are an essential piece in the advancement of health care. **Ms. Patchin** advised that during clinical trials the sponsor of the trial is required by federal law to cover all research related costs.
- DISCUSSION:** **Senator Lee** asked who would be responsible if an enrolled patient were hospitalized because of the clinical trial. **Ms. Patchin** indicated that any costs that are due to the research, or because of the research, would be covered by the sponsor of the clinical trial.
- MOTION:** **Senator Harris** moved to send **RS 26754** to print. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.
- RS 26830** **Relating to Bone Marrow Donations ...** To Provide Information to Patients.

Senator Heider stated this proposed legislation is geared toward encouraging people to register as bone marrow donors. It provides that primary care providers and urgent care physicians may inquire of patients ages 18 through 45 whether they are bone marrow donors and provide information to those patients about bone marrow donation. He indicated the Department of Health and Welfare will organize a bone marrow registry, and will publish the need for bone marrow donations as well as instructions on how to join a bone marrow registry.

DISCUSSION: **Senator Lee** commented she would like to see expanded information in the fiscal note if this legislation comes back for a hearing.

MOTION: **Senator Lee** moved to send **RS 26830** to print. **Senator Burtenshaw** seconded the motion. The motion carried by **voice vote**.

RS 26825 **Relating to Child Care Licensing ... To Provide for a Certain Waiver.**

Vice Chairman Souza stated there is a lack of residential drug and alcohol treatment programs for adolescents in Idaho. This proposed legislation asks the Board of Health and Welfare to grant a waiver from licensing to programs offering temporary alcohol-drug treatment for teens age 13 through 17. The temporary program would be for a period up to three months and a patient would have to have a doctor's request or recommendation. The patients parents would be required to sign a temporary power-of-attorney giving parental rights to the program for the duration of the residential program. **Vice Chairman Souza** noted that suicide is also a big problem in the state, and this bill contains language to allow a crisis intervention period of up to 24 hours without a doctor's order and without parental power-of-attorney.

MOTION: **Senator Lee** moved to send **RS 26825** to print. **Senator Bayer** seconded the motion.

DISCUSSION: **Chairman Martin** commented that he would appreciate more information on the need for parents to sign over parental rights to the program at any hearing on this legislation.

VOICE VOTE: The motion to send **RS 26825** to print carried by **voice vote**.

RS 26855 **Relating to Medicaid Eligibility Expansion.**

Vice Chairman Souza presented this legislation stating that it authorizes the Director of Health and Welfare to allow optional workforce training development programs for individuals in the Medicaid expansion. It allows the State to apply for a federal waiver for those over 100 percent of the federal poverty level (FPL). She indicated those are the individuals that already have subsidized policies on the State Insurance Exchange. This legislation also allows the State to apply for a federal waiver to provide mental health treatment. This is especially important for the counties as they fund care for the mentally disabled in their counties through the Indigent Fund and the Catastrophic Health Care (CAT) fund. She advised that with Medicaid expansion we are considering removing money from the Indigent Fund and the CAT fund. **Vice Chairman Souza** advised this would be a waiver to the federal government for a 90/10 split, with the federal government paying 90 percent of expansion costs, and the State paying 10 percent. This bill also contains a clause that requires legislative review of the impacts of Medicaid expansion during the 2023 Legislative Session, as well as a clause that would allow the Legislature to declare Medicaid expansion null and void should the federal funding ratio change.

DISCUSSION: **Senator Jordan** commented she has grave concerns about this proposed legislation, stating that binding future legislators to a particular percentage, without them having the opportunity to do the analysis at the time a change takes place, is very much in opposition to what the voters have asked us to do.

MOTION: **Senator Jordan** moved not to send **RS 26855** to print. **Senator Nelson** seconded the motion.

DISCUSSION: **Vice Chairman Souza** responded that these are not restrictions on Medicaid expansion. These are protections and enhancements. She stated the workforce development training program is not a restriction. People on the exchange now, who are covered with insurance, pay very little for their insurance program. They are not part of the population that most people thought of when they voted on this, and they are not part of the gap population that was uninsured. She indicated the reason for including that section in the waiver is it could help Idaho financially when the Legislature is struggling to find funding for the full expansion of Medicaid to cover the gap population and mental disability. She stated this is not a restriction and in fact it will help the counties be able to serve that population better. **Vice Chairman Souza** commented that the review of the impacts of the expansion is responsible legislating. She added that the clause regarding the federal funding ratio changing will take affirmative action by the Legislature to continue the program. She noted that if we start out at a 90/10 funding ratio and the federal government decides to change it to our regular ratio for full Medicaid which is 70/30, it would be an entirely different financial impact on the State. Thus, the clause giving Idaho the right to opt out is a protection for the taxpayers of the State, and not a restriction.

SUBSTITUTE MOTION: **Senator Bayer** moved to send **RS 26855** to print. **Senator Harris** seconded the motion

DISCUSSION: **Senator Nelson** stated that in his opinion the citizens of Idaho have been very clear on what they wanted in Medicaid expansion this year and it is not these extensions. He indicated he does not see the need for these requirements. **Chairman Martin** stated it has always been his preference to simply fund the expansion and review how it is working next year. He indicated he feels strongly about trying to abide by the will of his constituents, and will not be supporting the motion to print. **Senator Lee** commented that we need a path forward. We need to be able to vet many of these ideas, and see whether or not they fit in our state with our resources. She stated now is the time to start having those conversations.

VOTE ON SUBSTITUTE MOTION: At the request of Senator Jordan, **Chairman Martin** called for a roll call vote on the substitute motion. **Vice Chairman Souza, Senators Lee, Harris, Burtenshaw, and Bayer** voted aye. **Chairman Martin, Senators Heider, Jordan and Nelson** voted nay. The motion carried.

ADJOURNED: There being no further business, **Chairman Martin** adjourned the meeting at 4:00 p.m.

Senator Martin
Chair

Margaret Major
Secretary

Assisted by Lois Bencken