MINUTES

SENATE STATE AFFAIRS COMMITTEE

Attachment 4

DATE:	Monday, March 16, 2015
TIME:	8:00 A.M.
PLACE:	Lincoln Auditorium - WW02
MEMBERS PRESENT:	Chairman McKenzie, Vice Chairman Lodge, Senators Davis, Hill, Winder, Siddoway, Lakey, 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 McKenzie** called the Senate State Affairs Committee (Committee) to order at 8:01 a.m.
RS 23854	**Relating to Flags Flown at Half-Staff.**

Senator Cameron explained that the City of Rupert, in conjunction with local military personnel, established a monument to honor fallen service members. After the monument was completed, the military personnel requested that the flag be flown at half-staff. The City of Rupert ordered that the flag be flown at half-staff and then found that they did not have the authority for that order. They requested that the Governor order the flag to be flown at half-staff on an ongoing basis and found the Governor did not have the authority for that order. The purpose of **RS 23854** is to give the Governor the authority to order flags be flown at half-staff for a period of up to one year on monuments honoring fallen service members.

MOTION: **Senator Davis** moved to print **RS 23854**. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

RS 23834 **Relating to Investigational Drugs to Authorize the Department of Health and Welfare to Administer an Expanded Access Program.**

Senator Heider stated this bill allows a marijuana derivative to help with epilepsy seizures. The drug Epidiolex is being used in clinical trials, approved by Federal Drug Administration (FDA), to counter the symptoms associated with epilepsy seizures in children. Dr. Robert Wechsler, neurologist, specializing in epilepsy has agreed to conduct clinical trials using the medication. Twenty-five children will be enrolled and tested in the trial. The trial will be expanded and funded for two to three years. Initial funding is $223,500. The proposal has the support of the Governor's office, Idaho State Police (ISP) and the Department of Health and Welfare (HW).

Senator Stennett questioned whether Dr. Wechsler was certified for the trial. **Senator Heider** answered that Dr. Wechsler has approval from the FDA to conduct the trial. **Senator Stennett** asked how many children can be included in the trial for the $223,500. **Senator Heider** replied that approximately 25 children will be included in the trial. **Senator Winder** clarified that this is an expanded access program for a clinical study of Epidiolex. **Senator Heider** added that there will be 25 children enrolled in the study this year. **Senator Lodge** asked if this study is just for children or can adults be enrolled in the trial. **Senator Heider** answered this year's trial will just be for children.

MOTION: **Senator Winder** moved to print **RS 23834**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

H 154 **Relating to Abortion to Provide Requirements for Chemical Abortion and for Administering of Certain Drugs in Abortions, and Conditions of Anonymity.**

Senator Nuxoll stated this legislation requires the physical presence of a physician for an in-person examination and counseling of a pregnant woman prior to performing a chemical abortion. This bill will stop webcam abortions in Idaho. A webcam abortion is accomplished by a video conferencing system that replaces the personal face-to-face consultation with a physician.

Senator Nuxoll handed out a statement from the Roman Catholic Dioceses of Boise and read one statement from the document: "Access to yet another method of abortion will only further erode the respect for the value of human life. That is why we support **H 154**".

Testimony in support of H 154:

David Ripley, Idaho Chooses Life (ICL), said this legislation does not stop abortions from taking place or challenge the Supreme Court's ruling in Roe. What it does do, is create some common sense protections for women and girls considering a chemical abortion.

When the FDA approved the use of RU-486 it put limits on its use to protect the health and lives of women taking the drug. Over the past decade there has been a movement in the abortion industry to push the expanded use of RU-486 despite clear evidence that chemical abortions are more dangerous for women and girls than surgical abortion. As of 2012, 38 percent of all abortions in Idaho are being done with drugs; well above the national average. ICL expects that number to climb in the years ahead.

This legislation requires several specific items of the abortion industry:

- Section 1 of the bill includes the definitions. Section 2 requires a physician's physical presence.
- A physical examine must occur so the woman or girl can determine how far along she is so that it can be determined whether RU-486 is appropriate and safe in her specific case.
- The doctor must confirm that the baby is in the uterus, and not in the fallopian tube.
- The doctor must talk with the girl or woman about her options and the risks associated with undergoing an abortion as required by the informed consent law.
- The physician must make every effort to see the woman after she takes the drugs to ensure the baby has been removed from the uterus.
- There are civil damages for the woman in cases of malpractice.
- It would allow the Attorney General or county prosecutor to stop a physician who disregarded these standards from continuing to perform abortions.
- It protects the anonymity of the woman or girl involved if a lawsuit is filed.

Senator Stennett asked what is the change in the legislation that their organization is seeking. **Mr. Ripley** clarified that the proposed amendment to the legislation would add a phrase at the end of the definition of abortifacient stating that nothing in the definition shall apply when RU-486 is used to treat an ectopic pregnancy.

Kerry Uhlenkott, Right to Life of Idaho, Inc. (RTLI), advised that Planned Parenthood (PP) has initiated plans nationwide to install webcam facilities in every state in order to perform what are called webcam abortions. The webcam will make it possible for women in remote areas to obtain abortions without having to meet a doctor. RTLI's main concern is that the doctor is never physically present to

examine the woman in a webcam abortion. PP opened their first webcam facility in Iowa in 2008. The Iowa Board of Medicine voted eight to two in August of 2013 to ban the webcam practice by requiring that a physician must be physically present when administering abortion drugs.

The pro-life movement in Idaho along with several Idaho OB/GYNs agree that Idaho should be preemptive and ban this practice before it becomes a reality here. There are 18 states that have already passed similar legislation. Similar legislation is in effect in 16 other states.

Promoters of webcam abortions would have you believe that this procedure is a legitimate form of telemedicine and is safe and effective. The chemical abortions, which combine two very potent drugs, can have significant physical and physiological health risks for the mother.

Ms. Uhlenkott concluded her presentation by referring to an e-mail from Dr. Brian Johnson who practices Family Medicine at St. Luke's in Twin Falls and Jerome. It discusses the difficulty of diagnosing an ectopic pregnancy even with a complete in-person examination and laboratory studies.

Susan Thayer was employed by PP of Greater Iowa from April of 1991 to December of 2008 as a Clinic Manager for the Storm Lake Center. She stated in 2007, upper management mandated that every PP center would become a webcam abortion facility. The idea for webcam came from a crime scene show where telemedicine was used. For PP it was a solution to the shortage of doctors willing to travel the state doing surgical abortions. Without a doctor, nurse or any other medical staff on site, transvaginal ultrasounds are done by entry level and non-medical staff. The image is then scanned to a doctor that determines the length of gestation. **Ms. Thayer** explained in detail how the process works for a webcam telemedicine abortion after gestation is determined.

Lindsey Rees, registered nurse, Stanton health care Magic Valley, stated she has experience in case management, rural health connection and coordinated care with telehealth, and she is trained in obstetric ultrasound. **Ms. Rees** spoke to the danger of certified medical assistants, licensed practical nurses or even registered nurses who would not be fully qualified to perform an assessment required to administer the medication, let alone provide follow-up care to the women taking the RU-486 route for abortion.

Senator Stennett asked if Ms. Rees referenced national statistics. **Ms. Rees** answered that they are FDA statistics. **Senator Stennett** commented that it was her understanding that the abortion medications are typically .01 to .03 percent of a risk factor for serious complications. If a woman had an ectopic pregnancy or a diseased baby in utero, what is the rate of complications? **Ms. Rees** stated that the complication rate is one out of four for severe bleeding. **Senator Stennett** asked what is the complication rate for the surgical removal of a pregnancy. **Ms. Rees** stated she did not have statistics for surgical removal. **Senator Stennett** asked for the recovery rate for the surgical removal. **Ms. Rees** answered six hours. **Senator Stennett** asked how many post-surgery checkups are needed. **Ms. Rees** answered one appointment.

Terry Lennox, registered nurse, Rachel's Vineyard Post Abortion Healing Ministry, spoke on the complexity of the decision process when a woman chooses the option of chemical abortion. The woman has little time to grapple with the life-altering decision that she makes under often heart-wrenching circumstances. The physical presence of her doctor is not only ethical; it is critical to ensuring her physical and emotional safety and survival.

Medical and mental health care professionals' assessments are always more accurate and more finely tuned when a trusting, in-person, rapport is established with the patient. They look for subtle but significant clues. The woman deserves informed, compassionate, competent, and proactive health care. **Ms. Lennox** concluded that there are physical and psychological considerations that cannot be addressed by webcam abortions that replace the personal face-to-face consultation with a physician.

Jesse Taylor, representing, Angela Dwyer, Clinic Manager, Stanton health care, advised that this bill will be instrumental in providing a continued baseline level of safety for women that are seeking a chemical abortion in the State of Idaho. It is critical to have a physical evaluation and a complete health history of the patient by the prescribing physician to confirm gestational age, physical condition, to eliminate the potential for drug interactions and rule out the possibility of a ectopic pregnancy prior to any abortifacients being administered. The practice of telemedicine eliminates these very important diagnostic parameters and places the patient at greater risk for complications and potentially life-threatening outcomes. Abortifacients are very powerful agents that are not without complications. A physical examine, consultation and follow-up care are absolutely necessary to keep the complications to a minimum. To dispense this abortifacient remotely is irresponsible and dangerous.

Marilyn Scott Francis, former Director of Pregnancy Crisis, Twin Falls, spoke of a hotline call where a woman had been given the chemical abortion medication to end her pregnancy. She did not believe in abortion but PP told her that it is not an abortion because it was not a baby yet. She was surprised to see such a perfectly formed baby at the end of the abortion.

Julie Lynde, Executive Director, Cornerstone Family Council (CFC), addressed a few arguments of those who are opposed to the legislation:

- The Legislature is coming between a woman and her doctor: the legislation seeks to secure that the doctor will be physically present and speaking to the woman or girl face to face.
- This is a private decision between a woman and her doctor: in a webcam abortion, where is that professional half of those two decision makers; where is that doctor who is joining her in this decision?
- Women in the remote parts of Idaho need this type of access to abortion: the Department of Health and Human Services, along with the FDA have published various guidelines for the use of RU-486. One of the circumstances under which a woman should not be given RU-486 is the inability to have quick access to emergency medical service.

Vickie Wooll, M.D., Stanton health care, spoke about safe and sound medical procedures. She has not found that the chemical abortion medications are safe. They are strong and potentially dangerous. They must be prescribed in a supervised fashion with immediate access to emergency room care and someone knowledgeable to support any complications that can arise. In medical school, doctors are taught to do no harm. Standards for ethical medical practice are thorough evaluations, assessments, and a treatment plan for the patient. The patient is given choices and education which takes time. The FDA has set the rules for how the chemical abortion medication can be used, and these drugs have a black box warning label. The black box label indicates that a drug carries significant risk of serious or life threatening adverse affects. Commonplace incidents that affect patient safety are:

- Patients don't know when they got pregnant.
- There is no prescribed dosage for the pediatric population ages 14 to 17.

- All three of the drugs have black box warnings labels. For RU-486 there is a serious risk of infection from bacteria.
- There is a bleeding risk caused by the medication or an incomplete abortion.
- There is a lack of access to a physician two weeks post treatment to make sure the abortion took place.
- Ectopic pregnancy sometimes can be missed.
- There could be a drug reaction if the patient is on any other medication.

Senator Stennett asked why the chemical abortion drugs with their contraindications are more adversely harmful then any other powerful medications on the market. **Dr. Wooll** explained that the FDA has labeled them with black box warnings. One of the drugs used as an abortive is a cancer killing agent and the other two medications have statistics that show they are problematic. **Senator Stennett** commented that there are many drugs in the marketplace that have the FDA black box warnings.

Senator Hill inquired if FDA black box warnings were typical with most medications. **Dr. Wooll** answered that a black box warning is an exception. Black box labeling denotes special care, it warns that a drug has the potential for infection or suppressing white blood cell count, or other issues.

Ken McClure, attorney, representing the Idaho Medical Association (IMA), advised the Committee to amend **H 154** to add an ectopic pregnancy definition. The definition of abortifacient on line 16 states "any other chemical or drug dispensed with the intent of causing an abortion". Idaho Code § 18-604 defines an abortion as the use of any means to intentionally terminate the clinically diagnosable pregnancy of a woman with the knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. The IMA's concern is the procedure to deal with an ectopic pregnancy that uses another drug or chemical which, by this definition, is an abortifacient. The language of this provision says that no physician shall give a woman a drug for the purpose of causing an abortion without going through the provisions of Subsection 2. On Line 29 "the physician must first determine if it is clinically feasible that the unborn child is within the uterus and not ectopic". Under the language of this bill it would be illegal for a physician to treat an ectopic pregnancy.

Testimony in opposition to H 154:

Barbara Condon, representing herself, Idaho Falls, stated she believes this legislation is harmful to women and detrimental to women's access to safe and affordable health care. In regards to **H 154**, the debate of members of the House State Affairs Committee commented that if the passage of this bill can prevent even one abortion it will be worth it. The life of the fetus should be protected over the life and welfare of the pregnant woman even under harsh circumstances when becoming pregnant. Stop legislating medical decisions for women in Idaho. She asked the Committee to leave those decisions where they belong, between a woman and her physician.

Hannah Brass Greer, Legislative Director, Planned Parenthood, explained there has been a significant amount of misinformation about the safety of chemical abortion via telemedicine. **Ms. Greer** proceeded to explain the process.

- A woman undergoes an ultrasound by a health care provider for accurate dating of pregnancy and the ultrasound is viewed by the physician.
- The physician reviews medical history and discusses the abortion process plus abortion alternatives with the patient.
- Once the woman confirms she wants to terminate the pregnancy the doctor administers the first medication and subsequent medication.
- One to two weeks after the abortion the patient comes in for a follow-up appointment.
- A telemedicine visit is similar to the face-to-face visit with the physician. At the satellite location, the woman would meet with a health care provider.
- Once the ultrasound and physical review have been completed, the physician comes on the scene using a two-way camera to talk directly to the patient.

Senator Buckner-Webb asked since PP doesn't currently provide telemedicine abortions, why is PP interested in this legislation. **Ms. Greer** replied that anytime the Legislature tries to legislate the practice of medicine and insert itself into the examination room, PP will oppose that legislation. This legislation deals only with abortion and no other health care procedure; it is about restricting access and making it harder for Idaho women to get care.

Senator Winder explained that in Ms. Greer's testimony, about 6,000 Idaho patients are served by PP a year. How many of these individuals are seeking abortions? **Ms. Greer** answered it was approximately 10 percent per year.

Senator Lakey asked for clarification on her testimony about why this legislation is redundant. **Ms. Greer** answered **H 189** deals with the Telehealth Access Act, which also restricts medication abortion via telemedicine.

Senator Buckner-Webb asked for the percentage of risk for chemical abortions. **Ms. Greer** replied it is between .01 to .03 percent risk of serious complications.

Melissa Ruth, Program Manager, Idaho Coalition Against Sexual and Domestic Violence (ICASDV), advised that instead of limiting access to safe and legal abortions, the Legislature should focus on reducing violence and unintended pregnancies so all women are safe and can choose when and if to start or expand their families. Medical decisions should be left to a woman in consultation with her family, her faith, and her health care provider, not Legislators.

Senator Hill stated that he sat on the Board of the Family Crisis Center for many years but there was never any advocacy to make abortion more available. Is this the official stance of the ICASDV and how did the organization arrive at that decision. **Ms. Ruth** answered that the ICASDV opposes **H 154** she would have to direct the question on their official stance on abortion to their executive director.

Kathy Griesmyer, Public Policy Strategist, American Civil Liberties Union (ACLU), stated the ACLU of Idaho opposes **H 154** as it places medically unnecessary requirements on physicians performing medical abortions in an attempt to restrict a woman's right to access abortion care.

Cindy Gross, representing herself, stated that politicians have no business being in the middle of a patient's medical decisions. She told about her personal experience with abortion and how she relied on her doctor for medical advice and her husband for support. She asked the Committee to vote no on **H 154**.

Lauren Bramwell, representing herself, advised that a rural woman in the State of Idaho should have access to care and spoke to the following points: 1) safety of medical abortions; 2) potential of telemedicine; and 3) overstepping of governmental power in an area which should remain between a woman and her doctor.

Senator Lakey stated that telemedicine is a useful technology for access to a specialist when working with the treating physician. He does not believe it is appropriate to create greater access to a lower standard of medical care for the patient. These are situations that are dangerous for the patient physically, mentally and emotionally along with black box label drugs with contraindications. He does not believe that having access to the safest and most effective method of treatment should be replaced by a lower standard of care.

MOTION: **Senator Buckner-Webb** moved to hold **H 154** in Committee. **Senator Stennett** seconded the motion.

SUBSTITUTE MOTION: **Senator Hill** moved that **H 154** be referred to the 14th Order for amendment for possible amendment. **Senator Lakey** seconded the motion. The motion carried by **voice vote. Senators Buckner-Webb** and **Stennett** requested to be recorded as voting nay.

ADJOURNED: **Chairman McKenzie** adjourned the meeting at 10:20 a.m.

Senator McKenzie
Chair

Twyla Melton, Secrretary

Carol Deis, Assistant Secretary