

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Tuesday, March 26, 2013

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Goedde, Guthrie, Martin, Lakey, Schmidt and Durst

**ABSENT/
EXCUSED:**

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 Tippetts** called the meeting to order at 1:00 p.m.

MOTION: **Senator Goedde** moved to approve the minutes of March 19, 2013. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Guthrie** moved to approve the minutes of March 21, 2013. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

Chairman Tippetts announced that due to the fact the House was going back on the floor at 1:30 p.m., the order of the agenda was going to be changed. He said **H 45** would be moved to last on the agenda. He asked that those testifying for **H 178** be brief, there was a full agenda and the meeting had to stop at 2:00 p.m.

H 178 **Representative Jeff Thompson** presented this bill. He said the purpose of this legislation was to extend the authority of the Immunization Board to sunset on July 1, 2015. He gave a brief history of the bill, how the program works, and why the sunset date should be extended.

He said in response to state budget cuts, eliminating the state general funds for vaccine purchase, Idaho's Assessment System Program was created in 2010. Legislation was enacted, with the combined efforts of medical providers, the community, the Legislative Health Care Task Force, and the Idaho Immunization Program and health insurers. He said the Immunization Assessment Board determines an annual assessment from insurance carriers, based on the number of children aged zero to eighteen, who are covered by each insurer. The number of children covered is determined by the insurers themselves as part of an annual survey sent out at the beginning of the year. Assessments are collected by the Department of Insurance and transferred to the immunization program of the Department of Health and Welfare. The funds are then used to purchase vaccines at a reduced price of 30 percent less). He said immunizations were voluntary. In the past, doctors purchased vaccines from the private market at a higher cost. He said vaccines were purchased at a reduced price, under a federal contract, in order to save money and lower costs. By utilizing federal contract prices, state governments are allowed to purchase vaccines, thus, saving the 30 percent.

This benefits Idaho in several ways. Families benefit because they have easier access to vaccines. This is especially true for families in rural areas. **Representative Thompson** pointed out that if doctors or other medical providers were required to purchase vaccines on the private market, some were not going to be able to afford to continue to offer immunizations. In some parts of Idaho, doctor's offices are few and far between. If even a few of those offices were to stop offering vaccines, it would cause a hardship for families in those areas. Reduced price

vaccines help our physicians and other medical providers, such as local health departments and nurse practitioners, by not having to maintain separate stocks for vaccines for federal and state-eligible children. Insurance companies benefit by having vaccines purchased at a lower cost. Individuals may pay for the syringe or other items, but not for the actual immunization. He outlined the benefits of the sunset date. He said there was no fiscal impact to the general fund.

Vice Chairman Patrick said the bill does not require children or adults to be immunized, and the program is voluntary. **Representative Thompson** confirmed that the program was voluntary. **Chairman Tippets** asked those who were going to testify to state their name, say who they represent, and to stand for questions.

TESTIMONY:

Danielle Ahrens, representing Ingri Cassell, District 1, National Vaccine Information Center (NVIC) Advocacy.org, Idaho Director, testified on behalf of Ms. Cassell in opposition to **H 178**. She said the Vaccination Board was a bad idea and a blatant violation of Idaho Code. She said it was unethical for those who can still afford health insurance in Idaho to have to foot the bill for all vaccines purchased by the state for Idaho's children who don't qualify for the federal Vaccines for Children Program (VCP). She said vaccinations were made from aborted fetuses. Pro-Life advocates do not want to have to pay for vaccines because of this reason. She said parents are pressured to have their daughters vaccinated with Gardasil, not knowing the side effects. Gardasil has not prevented cervical cancer (Attachment 1). She urged the committee to vote no.

Mr. Pro-Life testified in opposition to **H 178**. He said there was nothing in the federal or state constitutions about health. In the state constitution, it says the state has the right to have regulations and laws having to do with the safety in the mines. He said he believed vaccines were harmful. **Senator Schmidt** advised Mr. Pro-Life to look at Article 10, section 1.

Dr. Rook Torres, Chiropractor, represented himself and testified in opposition to **H 178**. He said he had testimony he had previously submitted to the senators (Attachment 2). He said he has dedicated the last 15 years of his life studying vaccines. He said the Immunization Board was designed as an oversight board to help insurance companies buy vaccines at a discount. He said this cost is passed on to the general population in the form of increased premiums. Dangerous side effects have not been explained to the public. Vaccine dosages do not change, no matter how old the recipient.

Senator Cameron and **Dr. Torres** discussed the idea that prior to the passage of section 4, chapter 32, Idaho Code in 2010 due to budgetary constraints, the state stopped paying for vaccines for people that were insured. **Senator Cameron** said the natural consequences of that decision were that physicians were forced to keep two stocks of vaccines (one purchased by the state at a lower rate and those purchased from the private sector at a higher rate). Physicians did not keep adequate supplies of vaccines, and so the actual costs for those people purchasing insurance actually started to go up more rapidly because they were not able to get the vaccines at the state discounted rate. He said the benefits of the bill passed in 2010, allowed everyone to buy vaccines at the same state-discounted rate. The fully insured population could get vaccines at the same rate that people on Medicaid or who had other services, which allowed physicians to have one stock of vaccines. This still does not require anyone to use or obtain a vaccine.

Mary Migliori, representing herself and Integrative Medicine of Idaho, said she was a board certified anesthesiologist and spoke in opposition to **H 178**. She said her youngest son was diagnosed with autism after receiving several immunizations. She said she trusted the Center for Disease Control (CDC) when she had her son vaccinated and was not aware of the dangers and risks that go along with immunizations. She said she thought immunizations were unnecessary and we were trading experiments on our children for a lifetime of misery. She said it was unfair for insured Idahoans to pay increased premiums. **Senator Schmidt** said he understood from her testimony, that in her opinion, that vaccines are a significant problem, but asked Ms. Migliori if she felt parents should have a choice in vaccinating their children. She replied, "yes."

Dr. Suzanne Allen, representing the Idaho Academy of Family Physicians, testified in support of **H 178**. She said the administrative burden would greatly increase if we had two different stocks of immunizations.

Susie Pouliot, representing the Idaho Medical Association, testified in support of **H 178**.

Dr. John Hanks, Treasure Valley Pediatrics, representing his colleagues, testified in support of the bill. He said the Immunization Board provides for lower costs for children's vaccines in the state. The primary vaccine supply is affordable for all families. There were challenges in determining Vaccines for Children (VFC) eligibility, which is very confusing for families. They don't understand whether their insurance covers vaccines or what it means to be underinsured. If this bill was not passed, smaller practices who decide not to offer vaccines to those families who are VFC eligible, are often then referred to the state health departments for vaccines, which is inconvenient. This is better, though, for those families who are not VFC eligible, who are often referred back into the community. There is no continuity of care.

Dr. Jerome Hirschfield, representing himself as a pediatrician and his colleagues in pediatrics and family medicine, spoke in favor of **H 178**. He said any barriers or complexity added to the immunization system, will decrease the frequency and level of immunizations. There has been an immense amount of work done to support access to immunizations. In rural Idaho, in order to receive immunizations, a family may have to travel over 50 miles. Over 90 percent of parents who want to voluntarily provide immunizations for their children, deserve the right and the lack of a financial burden, to get their immunizations where they can get the continuity of care. Parents are given informed consent in the office for immunizations. If a parent has to find transportation, go to another center, or take time off from work, it is a disservice. Of more severity, as our immunization rates begin to decline, we will begin to see more wild disease. He said he refuted many of the erroneous statements about immunization and the dangers that were stated by some who testified at this meeting. The risk of wild disease is one-thousand fold greater than the risk from an immunization.

Mitch Scoggins, Manager of the Idaho Immunization Program, Division of Public Health, Department of Health and Welfare (Department), testified in support of the Department's stance on **H 178**. He gave an overview of the bill. He said it was impossible to compare the baselines from 2010. He said the Department wanted an extension of the sunset clause in order to continue to evaluate the assessment system of the vaccination program to make sure it was meeting the needs of the people. He said Blue Cross supported the extension of the sunset clause.

Dr. Ted Epperly, representing the Idaho Immunization Assessment Board, testified in support of **H 178**. He said the creation of the Vaccination Board has been good

for Idaho and has saved taxpayers money. Idaho ranks towards the bottom of immunization rates in the nation. There is nothing in this bill that mandates that a child be vaccinated. According to data, the safety and the efficacy of the vaccines shows this is not harmful to children. The lifespan of people has increased about 30 years since 1900, due to safety and purification of water and vaccines.

Steve Thomas, representing the Idaho Association of Health Plans, testified in support of the bill.

Dr. Gregory Janus, pediatric cardiologist and the current Executive Medical Director, St. Luke's Children's Hospital, represented himself and testified in support of **H 178**. The assessment system benefits Idaho families, doctors and vaccine providers. Families have benefitted because the system provides easier and better access to the vaccines, if they choose to be vaccinated. Providers do not have to manage individual stocks for privately-insured families.

Representative Thompson thanked all for their testimony and asked the committee to support **H 178**. He said this bill supports the authority of the Immunization Board and the sunset date of July 1, 2015.

MOTION: **Senator Cameron** moved that **H 178** be sent to the floor with a **do pass** recommendation. **Senator Durst** seconded the motion. The motion carried by **voice vote**. Senator Cameron will carry this bill on the floor of the Senate.

H 273 **Representative Jeff Thompson** presented this bill relating to motor vehicle financial responsibility. This legislation delays the implementation date to allow the Department of Transportation (Department) and the insurance industry to coordinate their efforts. It also provides further clarification of amendments on two technical issues in section 49-1234, Idaho Code. He said the Department will establish and maintain an online insurance verification system for motor vehicle insurance coverage required by the provision in code. The main portion of this legislation is the new language in section 3 at the bottom of page 2. When this legislation was conceived, it was designed to dovetail with the build-out of the Department's computer system. Delays were not anticipated, and beyond the control of any of the parties, the implementation of the system has been held up. To prevent unnecessary costs, the effective date is being moved to July 1, 2015.

He pointed out that when the legislation was enacted last year, it failed to exclude golf carts. That is being corrected so that when the driver crosses the street in a golf cart, he or she will not be stopped to be checked for insurance.

This legislation makes a technical correction regarding the review of surplus lines policies. There is no fiscal impact.

MOTION: **Senator Goedde** moved that **H 273** be sent to the floor with a **do pass** recommendation. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**. Senator Goedde will carry this bill on the floor of the Senate.

H 265 **Steve Price**, General Counsel, Ada County Highway District, presented this bill on behalf of Representative Mike Moyle, relating to public work and which provides an exemption for certain public works that have been certified by a professional engineer. He said for any public construction work, the current law requires that the applicable government entity retain a professional engineer to develop plans, specifications, and estimates for all public work involving public health and safety.

In addition, the professional engineer is also required to review the completed public construction work. There are numerous instances that the public work is very small in scope, and cost and compliance with the existing law exceeds the cost of the work.

This legislation would adopt and incorporate the same exemption, as mentioned above in the first paragraph, to public works contractors, to recognize that smaller projects with an estimate cost of less than \$10,000 for which no responsive statement of interest was received from a licensed public works contractor, are exempt. There is no fiscal impact.

MOTION:

Senator Lakey moved that **H 265** be sent to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Lakey will carry this bill on the floor of the Senate.

H 45

David Curtis, Executive Director, Board of Engineers and Land Surveyors, presented this bill relating to engineers and surveyors, to revise definitions and other corrections. One of the objectives of the bill has to do with the definitions of the practice of engineering and land surveying. He said the Federal Emergency Management Agency (FEMA) has a process by which flood elevations are established for the purposes of flood insurance determination. That process is a collaborative one between surveyors and engineers. The surveyors determine the elevation datum and the engineers determine the base flood elevation at various locations along a floodway. Both surveyors and engineers must certify elevations in that process. In addition, FEMA has an "Elevation Certificate" for the purpose of qualifying for the National Flood Insurance Program. That certificate must be signed and sealed by a land surveyor, engineer, or architect "authorized by law to certify elevation information." No current section of Idaho Code authorizes any profession to certify elevations. This legislation would authorize both engineers and land surveyors to do so.

One objective of the bill has to do with the ability of the Board to dismiss charges in a disciplinary matter. Current law allows the Board to dismiss a charge against a licensee if they find the charge to be "unfounded or trivial." The Board is hesitant to dismiss a charge as "trivial" because the charge would not have been made by a complainant if the complainant believed it was "trivial." The Board does, however, occasionally find that a charge relates to such a minor matter that it is not cost effective or appropriate to pursue disciplinary action against a licensee. This legislation would change the word "trivial" to "de minimus" to reflect the minor nature of such offenses.

Another objective of the bill has to do with the Board's ability to reissue or reinstate a license. Current law allows the Board to reissue or restore a license that was revoked by affirmative vote of three of the board members. The board believes there may be circumstances under which they would want to reinstate or restore a revoked license, but believes that since the license could only be taken following an action authorized in the Administrative Procedures Act, it should only be reinstated or restored through a hearing, as provided in the same act. This legislation would require a hearing in order to reissue or restore a revoked license and it clarifies matters regarding re-issuance of a lost, destroyed or mutilated wall certificate.

The last objective of the bill has to do with terminology. In surveying terminology, if the location of a corner can be reestablished by evidence, rather than mathematical proportion, it is an "obliterated" corner, not a "lost" corner. Section 54-1228 of the Idaho Code talks about reestablishing a corner location through taking testimony, under oath; hence, the corner location is "obliterated", not "lost." In the original bill the term "obliterated" was added to the definition section. The Ada County Highway District developed an amendment to the bill that would have added to the definition the phrase, "beyond reasonable doubt", which was in previous versions of the Bureau of Land Management publication, "Manual of Surveying Instructions," but is not in the most recent version (2009). The Ada County Highway District (ACHD) and the Board of Professional Engineers and Professional Land Surveyors agreed to an amendment which simply removed the definition of an "obliterated corner" from the bill. The engrossed bill does not contain that definition.

There is no impact to the general fund or to the dedicated funds of the Board of Professional Engineers and Professional Land Surveyors.

MOTION: **Senator Durst** moved that **H 45** be sent to the floor with a **do pass** recommendation. **Vice Chairman Patrick** seconded the motion. The motion carried by **voice vote**. Vice Chairman Patrick will carry this bill on the floor of the Senate.

PAGE PRESENTATION: **Chairman Tippetts** asked Senate Page Megan Johnson, to please stand and be recognized. He thanked her for her service to the Senate and called her to the podium to explain to the committee what she had learned. **Miss Johnson** said this was a wonderful experience and a privilege to be here. She said the Senate does amazing things and she had a huge amount of respect for all Senators. She said she has learned so much and she will never forget the experience. **Chairman Tippetts** presented Megan with a letter of recommendation from the committee, a card and a Senate watch.

ADJOURNED: There being no further business, **Chairman Tippetts** adjourned the meeting at 2:05 p.m.

Senator Tippetts
Chairman

Linda Kambeitz
Secretary