

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, January 12, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Organizational Meeting	
<b>Presentation</b>	Introduction to Electronic Rules Review	Tamara Priscock and Jan Hanke

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Patti Anne Lodge  
Vice Chair Joyce Broadsword  
Sen Denton Darrington  
Sen Melinda Smyser  
Sen Lee Heider  
Sen Steve Vick  
Sen Sheryl Nuxoll  
Sen Les Bock  
Sen Dan Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, January 12, 2011

**TIME:** 3:00 P.M.

**PLACE:** WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/  
EXCUSED:**

**NOTES:** 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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:10 p.m. She welcomed new committee members: **Senators Heider, Vick, Nuxoll** and **Schmidt**, and asked that each committee member introduce themselves with a short bio. She also introduced the committee's secretary, Lois Bencken; page, Mary Kershisnik; and intern, Jamie Hess. She reviewed the committee procedure for hearing RSs, bills, and rules, advising that the Department of Health & Welfare (DHW) rules would be reviewed electronically for the first time this year, which will effect a savings of at least \$5,000. She pointed out that the committee folders contain a list of rules for review during this session and noted that the presenter listed for each rule would be a good source for answers to any constituent questions that may arise. She announced a schedule of joint meetings to be held during January and stressed the importance of attendance at each meeting.

**Chairman Lodge** recognized and introduced to the committee **Tom Stroschein**, a member of the Health & Welfare Board.

**Chairman Lodge** introduced **Tamara Prisock**, Program Manager, Performance Management and Strategy, Division of Human Resources, DHW, who introduced additional DHW personnel who will be assisting the Committee with rules review: **Jan Hanke**, Administrative Procedures Coordinator; **Beverly Barr**, Rules Specialist; and **Frank Powell**, Rules Specialist. **Ms. Prisock** explained DHW's role in the rule revision process and pointed out information contained in the list of rules prepared by DHW that will be helpful for committee members and the committee secretary. She also noted that **Dennis Stevenson**, Administrative Rules Coordinator, and his staff have enhanced the electronic version of rules with hyperlinks to documents incorporated in the rules, which should be a great benefit to the committee and the public.

**Ms. Barr** then outlined for the committee the process of using an agenda with a hyperlink to the administrative rules to allow each committee member to quickly access the rules on line. She further explained the difference between pending, temporary, and fee rules. **Mr. Powell** demonstrated the process as it was outlined. **Ms. Barr** noted that blue text with a strike through within the rule indicates language being deleted from the rule and red text indicates language added to the rule. She pointed out that the top of the administrative rule screen contains a reference to the page number in the rule and the left side of the screen contains an index of additional rule docket numbers.

**Ms. Prisock** advised that Ms. Barr and Mr. Powell will be available at each meeting during rules review to assist with presentations and technical questions.

**Chairman Lodge** asked the committee for comments regarding electronic rules review and responses indicated it would be helpful to have the rules displayed on the committee room screens and to have those presenting rules reference page numbers. The consensus of the committee was that hyperlinks within the rules to incorporated documents would not only be helpful to them, but also to the public. **Senator Darrington** expressed some concern at not having hard copies of the rules for review and felt the electronic review process may take longer than in the past.

**Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** who then conducted a committee practice using a sample agenda containing hyperlinks to the Administrative Rules.

In response to questions of the committee, **Mr. Stevenson** discussed the fact that hyperlinks to incorporated documents and deleted text are both color coded blue, but deleted text will contain a strike through. He further explained that entirely new chapters will not be color coded as added text, but can be recognized by parentheses around a blank space where a date should appear at the end of the rule.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** who thanked DHW for their work in putting together the electronic review process and **Mr. Stevenson** and his staff for enhancing the rules with color coding and hyperlinks. She asked that committee members leave the rules review list in their committee folders for use at meetings,

**ADJOURN:** There being no further business to come before the committee, **Chairman Lodge** adjourned the meeting at 4:10 p.m.

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Senator Lodge  
Chair

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Lois Bencken  
Secretary

AMENDED AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Thursday, January 13, 2011

SUBJECT	DESCRIPTION	PRESENTER
16-0203-0901	Rules Governing Emergency Medical Services (Temporary)	Wayne Denny
16-0206-1001	Rules Governing Quality Assurance for Idaho Clinical Laboratories (Repeal) (Pending)	Dave Eisentrager
16-0206-1002	Rules Governing Quality Assurance for Idaho Clinical Laboratories (Pending)	Dave Eisentrager
16-0208-1001	Rules Governing Vital Statistics (Fee)	James Aydelotte

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, January 13, 2011

**TIME:** 3:00 P.M.

**PLACE:** WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock and Schmidt

**ABSENT/ EXCUSED:**

**NOTES:** 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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed guests to the committee's first electronic rules review. She passed the gavel to **Vice Chairman Broadsword** to begin rules review.

**Docket No. 16-0203-0901** **Relating to Rules Governing Emergency Medical Services (Temporary):** **Wayne Denny**, Program Manager, Emergency Medical Services (EMS) Bureau, Division of Public Health, Department of Health & Welfare (DHW) advised that the 2009 Legislature passed **S 1108a** which made numerous changes to Title 56, Chapter 10, Idaho Code, impacting the Idaho EMS Bureau Administrative Rules. A temporary rule was brought before the committee during the 2010 legislative session as a solution to help ensure that public safety was not compromised while negotiated rule making occurred.

**Mr. Denny** stated that it was the intention of the EMS Bureau to bring a new rule to the committee this session. However, after careful consideration of comments voiced during the public comment period over key elements of the draft related to agency licensure rules, that docket was withdrawn. He added that it is therefore necessary to seek reapproval of the temporary rule and the language in this docket is unchanged from the temporary rule approved during the 2010 legislative session. He then provided a comparison of the changes made from the rule previous to the 2010 session and advised that this rule change primarily aligns definitions in rule with changes to Idaho Code and replaces old terminology throughout the rule.

In response to questions of the committee, **Mr. Denny** explained that under this rule non-transport service records for each EMS response must be submitted to the EMS Bureau. The records are then uploaded to the national EMS information system and linked with the trauma registry, providing valuable crash data information analysis. He stated that the service records information is used within the EMS Bureau and no individual patient information is passed on. He further advised that this rule requires that a licensed Emergency Medical Responder (EMR) must have a current affiliation with a licensed EMS service or doctor to practice and that licensure is subject to continuing education requirements.

**MOTION:** **Senator Schmidt** moved, seconded by Senator Heider, that the committee adopt **Docket 16-0203-0901**. The motion carried by **voice vote**.

**Docket Nos.  
16-0206-1001  
and  
16-0206-1002**

**Relating to Rules Governing Quality Assurance for Idaho Clinical Laboratories (Pending): Dave Eisentrager**, Manager, Laboratory Improvement Section, Idaho Bureau of Laboratories and X-ray Facilities, prefaced his remarks with a history of laboratory regulation in Idaho. He noted that since the last major update of these rules in 1987, there have been significant technological changes that render much of the language in this chapter obsolete and outdated. The practices outlined in the rule are not appropriate for today's laboratory practice or are not needed. Further, the rules do not reflect more recent changes in federal regulations, in the organizational structure of the Department's Bureau of Laboratories, and in the Bureau's current practices. **Mr. Eisentrager** advised that **Docket 16-0206-1002** is a rewrite of the rule and requested that the committee adopt this rule.

Supporting documents related to this testimony have been archived and can be accessed in the office of the committee secretary (see Attachment 1).

Following a point of order by **Senator Bock**, **Senator Darrington** advised that **Docket 16-0206-1001**, a repeal of the old rule, should be adopted prior to or with the new rule.

**MOTION:** **Senator Bock** moved, seconded by **Senator Smyser**, that the committee adopt **Docket 16-0206-1001 and Docket 16-0206-1002**. The motion carried by **voice vote**.

**Docket No.  
16-0208-1001**

**Relating to Rules Governing Vital Statistics (Fee): James Aydelotte**, State Registrar and Bureau Chief of the Bureau of Vital Records and Health Statistics, Division of Public Health, DHW, stated that the 2010 Legislature passed H 492 which added one dollar to the cost of a death certificate. This rule change will make fee rules consistent with the statute and proposes a fee for a search for a death certificate consistent with the cost of the death certificate (\$14.00). He requested that the committee adopt **Docket 16-0208-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the committee secretary (see Attachment 2).

**MOTION:** **Senator Lodge** moved, seconded by **Senator Schmidt**, that the committee adopt **Docket 16-0208-1001**. The motion carried by **voice vote**.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** who asked the committee for comments on the electronic rules review. Suggestions were made that presenters refer to page numbers when presenting rules and slow down so committee members can follow on computers.

**ADJOURN:** **Chairman Lodge** reminded the committee of the joint meetings scheduled with JFAC Monday, January 17, and Wednesday, January 19, at 8:00 a.m., in the auditorium, as well as the joint meetings scheduled with the House Health & Welfare Committee on Thursday, January 20, and Monday January 24, at 3:00 p.m., in the auditorium. There being no further business, **Chairman Lodge** adjourned the meeting at 3:30 p.m.

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Senator Lodge  
Chair

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Lois Bencken  
Secretary

JOINT  
SENATE HEALTH & WELFARE COMMITTEE  
AND  
HOUSE HEALTH & WELFARE COMMITTEE  
AND  
JOINT FINANCE AND APPROPRIATIONS COMMITTEE  
8:00 A.M.  
WW02  
Monday, January 17, 2011

LOCATED IN THE CAPITOL LARGE AUDITORIUM, WW02

<b>TIME</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>8:00 a.m. — 8:15 a.m.</b>	Health and Human Services Overview	Amy Johnson, Principal Budget & Policy Analyst
<b>8:15 a.m. — 9:00 a.m.</b>	Department of Health & Welfare Overview	Richard Armstrong, Director
<b>9:00 a.m. — 9:45 a.m.</b>	Medical Assistance Services — Medicaid	Leslie Clement, Medicaid Administrator
<b>9:45a.m. — 10:00 a.m.</b>	Break	
<b>10:00 a.m. — 11:00 a.m.</b>	Medical Assistance Services — Medicaid	Leslie Clement, Medicaid Administrator

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
JOINT MEETING  
**SENATE HEALTH & WELFARE COMMITTEE  
HOUSE HEALTH & WELFARE COMMITTEE  
JOINT FINANCE APPROPRIATIONS COMMITTEE**

**DATE:** Monday, January 17, 2011

**TIME:** 8:00 A.M.

**PLACE:** Room WW02

**SENATE MEMBERS PRESENT:** Co-Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock and Schmidt

**HOUSE MEMBERS PRESENT:** Co-Chairman McGeachin, Vice Chairman Bilbao, Representatives Loertscher, Thayne, Wood, Guthrie, Roberts, Rusche and Chew

**JFAC MEMBERS PRESENT:** Chairman Bell Senators Cameron, Keough, Broadsword, Bair, Brackett, Mortimer, Toryanski, Heider, Bilyeu, LeFavour; Representatives Bolz, Eskridge, Wood(27), Hagedorn, Thompson, Vander Woude, Ringo, and Jaquet

**ABSENT/ EXCUSED:** Representatives Shepherd and Patrick

**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.

**MINUTES:** The meeting was called to order at 8:01 a.m. by Chairman Bell.

**PRESENTATION:** **Amy Johnson**, Principal Legislative Budget & Policy Analyst, Legislative Services Office, presented an overview of the Department of Health & Welfare FY 2012 Budget Recommendation totaling \$2,252,619,800 (25.9% of the General Fund). **Ms. Johnson** advised that germane committee action is required to achieve FY 2012 budget recommendations and the budget is partially funded by Medicaid receipts or Medicaid reimbursement. She advised there are 12 divisions within the Department of Health & Welfare (DHW) with 25 programs under each division. She pointed out that each of the various programs receive a different percentage of funding from the general fund, with programs under Mental Health Services and Psychiatric Hospitalization receiving in excess of 50 percent of funding from the general fund. Ms. Johnson reviewed the remaining Medicaid FY 2011 estimated cost to the general fund and provided a FY 2012 Medicaid forecast vs budget analysis, showing a Medicaid Gap in forecast vs. budget of \$84 Million, with the general fund portion being \$25 Million.

**Ms. Johnson** reviewed the intent of **H 701**, advising that Medicaid pricing increases were frozen for one year and temporary program flexibility was allowed. She advised that **H 701** further outlined the Legislature's policy direction for reducing the Medicaid Program through pricing modification priorities and benefit modification priorities. She also indicated that all temporary rule changes implemented under the intent language will be reviewed by the germane committees for recommending any permanent changes to the Idaho Medicaid Program.

**Ms. Johnson** provided information regarding other state's cost containment actions taken from a 50-state Medicaid Budget Survey for State Fiscal Years 2010 and 2011 prepared by the Kaiser Commission on Medicaid and the Uninsured. She reviewed the cost containment actions taken and the number of states taking those actions for FY 2010 and FY 2011. She stated that the challenge for all states was the maintenance of effort that the American Reinvestment and Recovery Act (AARA) required that states cannot restrict eligibility standards, methodologies or procedures more than those in place on July 1, 2008, and health care reform extended those requirements. Because the states cannot adjust eligibility, the next area they look at for cost containment is provider payments. The Kaiser Commission survey shows 39 states reduced or froze provider rates in 2010 and 37 have planned provider rate modifications for 2011. Cuts or freezes were implemented in physician rates, hospital rates, nursing home provider rates, dental provider rates, and managed care organization rates. Iowa, Kansas, Louisiana, and Oklahoma saw significant rate cuts and 47 states have adopted at least one provider tax. She advised that Idaho has an inpatient hospital provider tax and nursing home provider tax and is entertaining an immediate care facility tax.

**Ms. Johnson** advised that 45 states have co-payment requirements, with only 5 states imposing them on drugs. Providers are challenged with collection of co-payments, and this results in reduction in provider rates. Thirty-eight states implemented other pharmacy cost containment measures in FY 2010 and 30 states have additional changes planned for FY 2011; she reviewed those changes. The Kaiser Commission survey noted 20 states implemented benefit restrictions in 2010 and 14 states have planned restrictions for 2011. Those restrictions include: dental services, imaging services, medical supplies or durable medical equipment, personal care services, and occupational, physical care or speech therapy services.

**Ms. Johnson** advised that in FY 2010, 13 states expanded managed care service areas by adding eligibility groups, requiring mandatory enrollment into managed care, or implemented long-term care managed care programs. In FY 2011, 20 states adopted such policies. She stated the one area the federal government does not allow mandatory enrollment into managed care is the dual eligible population.

**Ms Johnson** then reviewed committee handouts, including the Health & Human Services Medicaid Addendum which sets forth the rate of pay guidelines for service categories by federal or state rule. She stated a detailed forecast summary has been prepared by DHW and is available online and includes a breakdown of State spending by areas, and by child or adult.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #1).

In response to questions of the committee, **Ms. Johnson** advised that State Medicaid Directors can assess or tax providers to generate more federal matching funds. She noted that this process had not changed, but that CMS is looking at it and is expected to issue new rules and it may be just a stop-gap measure for now. She stated that she would look at providing a list of policies in other states which may be useful to Idaho.

**PRESENTATION: Richard Armstrong**, Director, DHW, was recognized by **Chairman Bell** and he introduced Quayne Kenyon a member of the Board of Health & Welfare and Dr. Richard Roberge, Chairman of the Board of Health & Welfare. He addressed the impact current economic conditions have had on DHW budget requests and the work force. DHW Operating expenses and personnel were reduced over the last three years, and even with these efforts the budget request is 30 percent higher than 2008. He stated Medicaid cost is the main driver and will be a major challenge for FY 2012. He advised that the budget is driven by two major issues, the economy and program eligibility criteria. When economic times are tough, demands for Medicaid services go up. Both poverty and unemployment impact benefits. Eligibility is set by the state or the federal government or a combination of the two. We do not limit the number of people who are eligible. Enrollments are on the increase in both Medicaid and food stamps. Food stamp benefits are paid 100 percent by the federal government while the state's role is determining eligibility and continued oversight of each case.

Food stamp eligibility increased by 256% since 2007. In December 2010, \$29.3 Million in food stamp benefits were provided to Idaho claimants. He stated that Idaho led the nation in food stamp growth during 2010. This he attributed to the low food stamp participation in 2007, when only 50% of Idahoans who qualified for food stamp benefits actually applied. This changed with the latest economic downturn. **Director Armstrong** also indicated Medicaid enrollment has increased by 21% from FY 2007 to December 2010. This growth exceeded the national average according to the Kaiser report. He stated that the Medicaid budget had increased 39% from FY 2008 through the requested FY 2012 budget request while during that time the rest of DHW has held the line.

**Director Armstrong** detailed how FY 2010 and FY 2011 budget reductions had impacted employees. In FY 2008 the ratio of food stamp caseload per worker was 1:185; in the July-September time frame of FY 2011, that ratio was 1:627. DHW has streamlined business processes and expanded use of technology to handle the caseload increase with a smaller workforce. He advised the increased workload has taken a toll, with many top performing employees leaving indicating in exit interviews that pay and workload stress are the primary reasons.

**Director Armstrong** advised that Medicaid Trustee and Benefits drives the budget, with an increase of 39% between FY 2008 and FY 2012 request. Enrollments expanded by 21% during the same period. He stated a need for health care reform that utilizes a managed care approach and leverages health information technology. DHW will strive to improve quality and outcomes rather than paying for more procedures. In the short term he stated there are two options either to appropriate more money to Medicaid or reducing costs or a combination of the two. Reducing costs requires reducing services, pricing or the number of people enrolled in Medicaid. He advised that most new enrollees are children from low-income families. He noted that the cost to Medicaid for covering these relatively healthy children is \$170 per month, while the cost for a child with a disability is \$1,200 per month and costs for adults with special needs ranges from \$1,500 to \$1,800 per month. The challenge is to contain costs for those who are elderly or developmentally challenged.

**Director Armstrong** explained that changing eligibility criteria is not an option for controlling costs as federal funding and Healthcare Reform restrict any changes in eligibility criteria and Idaho's eligibility is already restrictive. Further tightening would eliminate children from low-income families, not enrollees whose services are the cost drivers. He would also caution against further reduction in provider rates as they are now dangerously low and further reductions could result in providers refusing to treat Medicaid patients. He advised there is one realistic option to trim benefits. DHW must focus on preserving the core services that protect public health and safety by considering reducing certain community support services and look at families, churches and volunteer organizations to help enhance the quality of life for citizens that DHW no longer has the resources to serve. He noted that Medicaid is the only health care safety net for many participants and their families. This makes DHW a vital component of the public safety network in Idaho, and as budget decisions are made, we must not lose sight of that factor.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #2).

In response to questions of the Committee, **Director Armstrong** noted that a robust volunteer program used to exist to help people without family. This program gradually disappeared as services were provided by DHW. He stated the need to return to this type of grass roots effort to mobilize volunteers as DHW does not have the personnel available to organize this effort. Regarding the possibility of implementing a random drug testing program for adult Medicaid recipients, **Director Armstrong** advised that a lengthy study has been completed. That study indicated that adult restrictions resulting from such a testing program would affect children in the household and some programs would cost more to administer than the resulting savings. He also addressed the problem of liability affecting volunteering. He stated many volunteers are simply offering observations rather than providing therapeutic services and once contacted, DHW will respond to the situation. There was a concern expressed this type of volunteer service, even within the family, is a 24/7 responsibility and volunteers can easily get burned out. He stated many families today make incredible commitments to provide care, while others are not able to provide that same level of care. He stated the number of volunteer hours has to be sustainable.

In response to a question regarding the stress within DHW and lack of adequate personnel causing errors, **Director Armstrong** advised that the State has been able to maintain an acceptable level of performance and is not at risk of federal penalty. He discussed the administrative issues DHW has with adult mental health being provided within DHW, while children's mental health is contracted. He stated it would benefit the State to move to a managed care environment which would mean separating the social services from the medical model. He compared Idaho's program to those of other states and indicated the statistics in each state differ, noting Rhode Island has fewer people on Medicaid but spends more.

**Director Armstrong** detailed changes implemented with Assertive Community Treatment teams in recognizing a crisis before it occurs, including questioning if an individual coming into a clinic has insurance coverage, Medicaid or private, to pay for treatment. They then look at known risk factors so service levels would not be changed. He stated that it is difficult to predict behaviors, especially with mental illness. The basic objective is not to jeopardize public safety. He advised in the adult mental health category the caseloads are up and it is a management issue, but there are not wait lists. However, in the substance abuse treatment area there is a limited amount of money and there are wait lists. He explained there is a triage process for assessing cases before admitting individuals into treatment.

DHW is unable to provide substance abuse treatment services to everyone who needs it, but is trying to reduce the time from initial entry to first review. They try to make sure that only those that remain in therapy are those who are making progress. He stated preference must be given to the criminal justice system and those who are a risk to society.

**Director Armstrong** noted that there has been an amazing evolution in the care for the disabled and mentally ill. We have moved from predominately institutional care to group homes and community support. He attributed a major factor in this evolution to pharmaceuticals which have improved the functionality of these individuals. It is DHW's intent to continue to reduce the institutional population. Now we have individuals who are already in stable living environments and the challenge is how to manage the services they receive to improve life quality. DHW is trying to find the right balance for an improved health care model.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #2).

**PRESENTATION: Leslie Clement**, Administrator, Division of Medicaid, presented the Medicaid Administration Budget advising that Medicaid is 80% of the DHW budget. This division is responsible for processing payment for covered Medicaid benefits. She advised that Medicaid Benefits are 97% of budget request and Administrative costs have decreased from 3.8% to 3.1% of budget, noting that administrative costs nationally for Medicare run about 5% and administrative costs for private health plans are higher at 8-18%. She outlined the divisions management organizational chart, noting some key employees are approaching retirement. She advised that 80% of the budget is used for contracted services, including federally mandated activities, rents & other costs, plus employee travel for federally mandated licensing and certification. The remainder of the budget is allocated to personnel overseeing regulatory activities. She explained that staff costs are matched 50/50 with federal funds, while operating costs are matched at rates between 50% and 75%. She reviewed funding sources for administration and the history of those sources.

**Ms. Clement** reviewed the work force reduction experienced by the Division and stated that in an attempt to manage personnel costs furloughs have been implemented, work has been shared, and \$235,000 was moved from operations to personnel. The work force reduction has impacted Medical Services, causing a delay in needed medical care, and Developmental Disabilities, causing a delay in disabled services benefits. It has also impacted Pharmacy, causing a delay in medication approval, and Long Term Care, causing a delay in long-term supports, resulting in a federal audit finding current caseloads are a threat to the State's ability to conduct timely level of care assessments and re-determinations. There are many good job candidates for the vacant positions, but there is a tremendous learning curve. She stated Licensing and Certifications are behind across the State and this affects nursing facilities, hospitals, clinics and assisted living facilities who are all impacted by the inability of the Division to respond in a timely manner to requests and complaints. Staff feedback indicates that morale is generally good in spite of the challenges. However, staff is concerned about further budget reductions and many are taking on second jobs.

**Ms. Clement** moved on to address the 2011 Supplemental Budget request that \$867.1K in general funds that was removed during the holdback, be restored. Additional 2011 budget requests are \$3.1 M for 3rd party recovery contract increase and \$155.5K spending authority to collaborate with Utah to obtain a Children's Healthcare Improvement Fund Grant. This grant will be used to coordinate health information technology and integrate health data exchanges, and immunization data, with Utah. In the 2012 Operating Budget, the requested spending authority for the UT HIT grant is \$400K. She compared the 2011 appropriation with the 2012 Administration Budget Recommendation, noting a 6% general fund increase.

In response to questions of the Committee, **Ms. Clement** advised that the grant for Idaho and Utah's Health Data Exchange complies with the new federal healthcare requirements. In terms of recovery from the current budget problems, she advised that she is nervous about the cut in staff and it will be a great challenge to meet current demands and intensive work will be required from contractors. The Division has gone through a zero based budget exercise but so much of what the Division does is driven by federal law. She does not feel State statute or agency rules are a problem, the challenge is how to meet the federal requirements with existing staff. Related to constituent complaints that some people work the system, she indicated that one of the Division's problem is service utilization and people taking advantage of the system. She would encourage health care providers to decline making appointments for services that they deem medically unnecessary. The Division does rely on each physician's expertise and judgment.

Regarding the possibility of institutionalizing those who are developmentally disabled but are currently receiving services at home, **Ms. Clement** stated that there is absolutely no incentive to institutionalize the individual. She stated that the Division wants to provide integrity to the process and make sure they are not over providing or under providing services.

**Ms. Clement** addressed questions regarding the Medicaid Management Information System contract with Molina Healthcare, Inc. She indicated other states have experienced some of the same challenges Idaho has had in the start up of this system. The system performance is reviewed weekly and slow but steady progress is being seen. Some providers are working well with the system while others with satellite offices or specialties are a challenge. She explained the interim payments made to providers which were not associated with specific claims while the system was not working efficiently. The Division has now instituted a recoupment process by taking back a percentage of the payout from current claims coming in from those providers. She stated she expects that most of these cases will be cleaned up over the next couple of months.

With regard to inspections for licensing and certifications, **Ms. Clement** advised that because of the workforce cutback, some facilities ready to serve the public have had to wait for two to three months. She stated that some inspections are conducted by region, but federal licensing and certifications for health facilities have always been at the state level.

With regards to children's eligibility, she indicated that Idaho is the second most restrictive state and it is up to 185% of the federal poverty level. However with respect to the Medicaid benefits provided by the State, Idaho is at least as favorable as most states and in some areas better. Some states have capped waiver programs, but historically, Idaho has not.

**Ms. Clement** introduced the second portion of her presentation regarding the Division of Medicaid Trustee & Benefits Program. She stated there are three benefit plans: Coordinated, Enhanced, and Basic. These plans all reflect payments to providers and comprise 96.9% of the Medicaid appropriation. She identified the benefits within each plan and noted 90% of enrollees are children in the Basic Plan. She reviewed the funding sources and history of funding sources for provider payments.

**Ms. Clement** addressed the Medicaid response to **H 701**. Dental services were expanded and a selective contract for transportation has been reviewed and implemented. Medicaid also surveyed the public in two parts, and reviewed the information received from providers and non-providers. Focus was on current year reductions and how other suggestions can be implemented over time.

**Ms. Clement** presented the Division's results from the top five cost drivers. Hospitals were well over target and Nursing facilities were over target by a smaller margin. Pharmacy changes were expected with federal laws dictating the method of payment. Other short term or temporary rules may become long term for the children's disability program.

**Ms. Clement** advised that Congress acted to extend the 2011 mid-year FMAP change through June 2011 instead of ending in December 2010. Levels were adjusted for the months impacted, shifting some monies to the Millennium Fund.

**Ms. Clement** described the Medicaid "Clawback" as a method established by the federal government to help transition funding of Medicare prescription drug coverage that was once the sole responsibility of State Medicaid programs. The total fiscal year 2011 impact is to shift \$2.2M to the Millennium Fund, as recommended by the Governor. Regarding the "Cliff" FMAP change for 2012, Congress has not and is unlikely to extend the enhanced federal funding, which ends June 2011. This does not permit a Millennium Fund opportunity and so shifts to the General Fund.

**Ms. Clement** outlined the Nursing Home Assessment utilized to minimize General Fund reductions while preserving federal funds. The result is \$10 M in annualized savings. One of the parameters to be considered was that all cases must receive approval for any changes and pricing from the federal government, with a waiver or State Plan amendment. A notice of policy change will be published.

As a method to reduce State Medicaid costs, eligibility has historically been reduced to eliminate certain categories and change qualifying procedures. However, under current law, this is not permissible until 2014. All Idaho provider rates are frozen, with rates not to exceed Medicare. Assessments will be used from eligible provider funds to retain federal funds. With regard to Omnibus Decisions, she advised that the Governor recommends a general fund reduction in the Medicaid program of \$25.2 M or 5.5%. This results in a corresponding loss of federal funds in the amount of \$58.8 M for a total program impact of \$84 M.

Two action scenarios were outlined. Scenario number one, the Blunt Approach, meets the budget shortfall target, but impacts businesses that provide services, including numerous agencies statewide. This scenario would include eliminating optional adult benefits, such as developmental disability center services and psychosocial rehabilitative services. Other services would stay intact. The second scenario, Tailored Strategies, would fall \$4.5 M short of the budget target. Under this scenario multiple strategies would reduce some optional benefits, adult benefits, and extend all 2011 temporary rule reductions.

**Ms. Clement** stated the ability to use cost-sharing is limited. Many surveys stated that Idaho should be charging co-payments. However, federal law asserts that any premiums charged cannot limit eligibility, and there is no ability to collect in the event of failure to pay. There is a required letter to opt out, which most participants would probably choose. Providers in other states have difficulty trying to collect on co-payments as little as \$2 to \$3, but are able to deny services if not paid.

Under any scenario, the Division is committed to:

- Continuing efforts to improve primary care access through the development of Medical Homes;
- Work on new payment methodologies to provide incentives for outcomes rather than utilization;
- Use self-funded program integrity efforts that pursue recoveries for inappropriate payments;
- Seek opportunities to reduce higher cost services through programs such as the Money Follows the Person grant; and
- Facilitate efforts to develop and expand managed care programs for high-cost populations such as dual eligibles.

**Ms Clement** provided a summary of Trustee and Benefit Budget recommendations totaling \$1,756,026,500.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #3).

**ADJOURN:** Chairman Bell adjourned the meeting at 11:13 a.m.

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Chairman Bell  
Chairman House Appropriations

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Co-Chairman Lodge  
Chairman Senate Health & Welfare

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Lois Bencken  
Secretary

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Co-Chairman McGeachin  
Chairman House Health & Welfare

**AGENDA**  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Monday, January 17, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>16-0211-1001</b>	Rules Governing Immunization Requirements for Children Attending Licensed Daycare Facilities (Pending)	Carmela Kerns-Gupta
<b>16-0215-1001</b>	Rules Governing Immunization Requirements for Idaho School Children (Pending)	Carmela Kerns-Gupta
<b>16-0213-1001</b>	Rules Governing Certification of Idaho Water Quality Laboratories (Fee)	Chris Ball
<b>16-0213-1002</b>	Rules Governing State of Idaho Drinking Water Laboratory Certification Program (Fee)	Chris Ball

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, January 17, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:03 p.m. and announced that Jamie Hess, the Committee's intern is very capable and available for research. She requested comments from Committee members regarding the joint meeting with JFAC earlier in the day. Responses indicated appreciation for the opportunity to partake in the joint meeting and that the information was very helpful. She encouraged suggestions from the Committee regarding budget concerns and advised that an additional joint meeting with JFAC will be held on Wednesday, January 19, at 8:00 a.m. and a joint meeting with the House Health & Welfare Committee will be held on Thursday, January 20, and Monday January 24. **Chairman Lodge** then passed the gavel to **Vice Chairman Broadsword** for rules review.

**Docket No. 16-0211-1001** **Rules Governing Immunization Requirements for Children Attending Licensed Daycare Facilities (Pending): Carmela Kerns-Gupta**, School and Childcare Immunization Program Coordinator, Department of Health & Welfare (DHW), advised that Idaho's daycare immunization rules are currently inadequate and leave children susceptible to many preventable illnesses. In an effort to increase the number of children who are fully protected from preventable diseases, DHW is amending these rules to increase the number of vaccines required for children attending licensed daycare facilities through the incorporation by reference of "The Recommended Immunization Schedules for Persons Aged 0 Through 18 Years – United States, 2010." The changes to these rules will help protect children from additional vaccine-preventable diseases, provide a conditional attendance clause for children who are in the process of receiving required vaccines, provide clarification on exclusions of children from attendance, and update existing language to match current practices. She noted that parents who choose not to immunize their children will still be able to sign an exemption form for medical, religious, or other reasons.

**Ms. Gupta** requested that the Committee adopt **Docket No. 16-0211-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #1).

**TESTIMONY:** **Dr. Tom Rand**, Pediatrician, representative of the American Academy of Pediatricians, and the Immunization Policy Commission created by the Legislature in 2010, spoke **in support** of this Docket. He thanked the Committee for its work in bringing forth this rule and indicated that practicing pediatricians have been involved in rulemaking and encourage the passage of **Docket No. 16-0211-1001**.

**Chairman Lodge** asked **Dr. Rand** to identify one of the latest studies on the autism connection to immunizations. **Dr. Rand** responded that a 1970 study relating measles vaccination to autism was recently withdrawn by the journal that published it. He advised that in many subsequent studies comparing immunized children with non immunized children there has not been any association with immunization and autism. He noted that what is understood scientifically about autism is that the problems that contribute to autism, including genetics, interruptions in normal brain development, and injuries to a fetus or newborn, occur at a point in development before immunizations are given. **Chairman Lodge** asked if there are more cases of autism recorded in the United States than in other countries. **Dr. Rand** stated that there has been an increase in autism cases and that it is his belief that countries keeping records comparable to the United States also have experienced an increase of autism cases.

**Senator Vick** asked what drove this rule change. **Dr. Rand** stated that past changes were incremental. This rule change sets a standard that anyone would accept for a fully immunized child based on national standards. He added that states that have adopted similar changes have seen improved rates of immunization.

**Senator Nuxoll** asked where information on research regarding autism can be found. **Dr. Rand** indicated he did not have the exact information with him but will provide that information for the Committee from two sources that provide a balanced view.

**Senator Heider** asked if people choosing not to have their children immunized would be discriminated against and have difficulty finding daycare. **Dr. Rand** indicated that if parents do not immunize a child and have fulfilled the requirements of the statute in listing the reason for their non-immunization, there should not be any discrimination. He added that the rule also provides that a child who has not completed immunizations, but is in the process of completing them, will not be excluded.

**Senator Darrington** provided some history on this rule, stating that the only way to get a law passed in previous sessions was to include exclusions for those who had a philosophical difference and that is the reason Idaho's immunization rate is so low. He asked **Dr. Rand** if there is any medical reason not to be immunized. **Dr. Rand** responded that each of the immunizations are selected because they are a real hazard to our public health and many of them are diseases that affect other ages besides children. A child who is immunized is protected and creates a barrier against the introduction of that disease into the community. Families of children who are not immunized essentially are given a free ride because they are protected by the immunized population. He added that there are specific medical contraindications to particular immunizations, including a child who has an allergic reaction to the first dose of vaccine, and children whose immune systems are abnormal cannot receive live vaccines. He stated in his experience the majority of parents want children immunized and parents who do not allow children to be immunized are a relative small contributor to under immunization. The family who cannot find the time to get their children immunized, and the parents who think their children are fully immunized, but did not keep immunizations up to date are a much larger contributor to under immunization. **Senator Darrington** asked if a 90 percent immunization rate would effectively be full immunization. **Dr. Rand** advised that 90 percent is a goal that was set by the World Health Organization and we have not come anywhere close.

**Vice Chairman Broadsword** invited **Ms Gupta** to the podium for further questions from the Committee. **Senator Vick** asked if daycare facilities notify the parents that they have the right to opt out of immunization. **Ms. Gupta** advised that DHW provides information to all daycare facilities and maintains a website containing immunization forms. She stated that as far as she knows, day care facilities do provide that information to parents. **Senator Vick** asked if there are unlicensed day care centers in Idaho at this time. **Ms. Gupta** indicated she did not have that information. **Vice Chairman Broadsword** stated that daycare centers with seven children or more require licensure.

**Ms. Gupta** stated that if a parent chooses to not immunize a child, that child would not be denied attendance at a licensed daycare. She added that the only time a child would be excluded would be in the event of a disease outbreak and that would be to protect the health of the non-immunized child.

**TESTIMONY:** **Dr. Tom Patterson**, Pediatrician, and President Elect of the American Academy of Pediatrics, Idaho Chapter, spoke **in support** of **Docket No. 16-0211-1001**. He stated this rule change will lead to better immunization rates in Idaho by increasing immunization between one year and kindergarten age.

**MOTION:** **Senator Darrington** moved, seconded by **Chairman Lodge** that the Committee adopt **Docket No. 16-0211-1001**. The motion carried by **voice vote**.

**Docket No. 16-0215-1001** **Rules Governing Immunization Requirements for Idaho School Children (Pending):** **Ms. Gupta** advised that in an effort to increase the number of children who are fully protected from preventable diseases, DHW is amending these rules to increase the number of vaccines required for children attending schools in Idaho. The rule incorporates The "Recommended Immunization Schedules for Persons Aged 0 Through 18 years – United States, 2010." She provided a chart (see Attachment #2) detailing the proposed additions to the current school immunization requirements. The changes to these rules will help protect children from additional vaccine-preventable diseases, provide a conditional admission clause for children who are in the process of receiving required vaccines, provide clarification on exclusion of children from attendance, and update existing language to match current practices. Parents who choose not to immunize their children will still be able to sign an exemption form for medical, religious, or other reasons.

**Ms. Gupta** requested that the Committee adopt **Docket No. 16-0215-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #2).

**Senator Nuxoll** asked why the number of vaccinations is being increased. **Ms. Gupta** responded that 15 to 20 years ago we did not have the vaccines we have today. The purpose of this rule is to align Idaho's requirements with federal standards.

**TESTIMONY:** **Dr. Patterson** requested that he be allowed to respond to **Senator Nuxoll's** question. He provided a history of his experience and the changes in vaccines over several years, stating that many serious illnesses are rare today due to medical science and vaccinations. He noted that although vaccines have decreased the volume of patients in his practice, he supports them because they save lives.

**Vice Chairman Broadsword** commented that with recent flu vaccines adults were given DTP boosters. **Dr. Patterson** indicated that he agrees with giving that booster as 74 percent of pertussis cases in children are linked to contact with an infected adolescent or adult.

**TESTIMONY:** **Patricia Stewart**, State Department of Education, spoke **in support** of **Docket No. 16-0215-1001**.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Darrington**, that the Committee adopt **Docket No. 16-0215-1001**. The motion carried by **voice vote**.

**Docket Nos. 16-0213-1001 and 16-0213-1002** **Rules Governing Certification of Idaho Water Quality Laboratories (Fee) and State of Idaho Drinking Water Laboratory Certification Program (Fee):** **Dr. Christopher Ball**, Chief of the Bureau of Laboratories, DHW, stated these two companion dockets propose to repeal and rewrite the Rules Governing Certification of Idaho Water Quality Laboratories. The rewrite is required because the majority of the existing chapter was written in 1977, with the last minor revisions incorporated in 1993, and several important changes in certification requirements and procedures have occurred since then. The intent of the rewrite is to align the rules more closely with the requirements of the Environmental Protection Agency (EPA), as outlined in the Manual for the Certification of Laboratories Analyzing Drinking Water, and to clearly delineate the certification procedures used by the Bureau of Laboratories when evaluating drinking water laboratories in Idaho.

**Dr. Ball** stated that the new schedule increases certification fees in proportion to the scope of work performed by the drinking water laboratory. This fee schedule brings Idaho's certification fees in line with our neighboring states. He noted that none of the private laboratories involved in negotiated rulemaking objected to this fee increase and that it is estimated that this change in fees will result in a \$12,500 increase in revenue, which should help offset more of the costs associated with the certification process.

**Dr. Ball** requested that the Committee approve **Docket No. 16-0213-1001**, Chapter repeal, and **Docket No. 16-0213-1002**, Chapter rewrite.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #3).

**Vice Chairman Broadsword** asked how many laboratories in Idaho are certified for testing drinking water. **Dr. Ball** responded that there are 13 in-state laboratories certified and an additional 22 out-of-state laboratories that Idaho has reciprocity agreements with.

**MOTION:** **Senator Bock** moved, seconded by **Senator Schmidt**, that the Committee approve **Docket No. 16-0213-1001** and **Docket No. 16-0213-1002**. The motion carried by **voice vote**.

**Adjourn** **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** who reviewed the agenda for the next day and adjourned the meeting at 4:00 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

**AGENDA**  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Tuesday, January 18, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>RS19924</b>	Relating to Outdoor Emergency Care Services by Individuals Credentialed by National Ski Patrol System, Inc.	Senator Bart Davis
<b>16-0202-1001</b>	Rules Governing Emergency Medical Services (EMS) Physician Commission (Pending)	Dr. Murry Sturkie
<b>16-0301-1001</b>	Rules Governing Eligibility for Health Care Assistance for Families and Children (Pending)	Kathy McGill
<b>16-0301-1002</b>	Rules Governing Eligibility for Health Care Assistance for Families and Children (Pending)	Kathy McGill
<b>16-0301-1003</b>	Rules Governing Eligibility for Health Care Assistance for Families and Children (Temporary)	Kandace Yearsley
<b>16-0303-1001</b>	Rules Governing Child Support Services (Temporary)	Kandace Yearsley
<b>16-0304-1004</b>	Rules Governing the Food Stamp Program in Idaho (Temporary)	Kandace Yearsley
<b>16-0305-1003</b>	Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Temporary)	Kandace Yearsley
<b>16-0308-1002</b>	Rules Governing Temporary Assistance for Families in Idaho (Temporary)	Kandace Yearsley
<b>16-0612-1003</b>	Rules Governing Idaho Child Care Program (Temporary)	Kandace Yearsley

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, January 18, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m.

**RS19924** **Relating to Outdoor Emergency Care Services by Individuals Credentialed by National Ski Patrol System, Inc.:** **Senator Davis** stated this legislation deals with the unauthorized practice of medicine. It confirms and clarifies that it is not unauthorized practice of medicine for an individual to render aid in an emergency where no fee for the service is contemplated and specifically includes those ski patrol members that are appropriately certified by their organization. **Senator Davis** requested that the Committee send **RS19924** to print.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Broadsword** that the Committee send **RS19924** to print. The motion carried by **voice vote**.

**GAVEL CHANGE:** **Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** to begin rules review.

**RULES:** **Relating to Rules Governing Emergency Medical Services (EMS) Physician Commission (Pending):** **Dr. Murray Sturkie** an emergency medical physician and Chairman of the Idaho Emergency Medical Services Physician Commission advised that the Physician Commission maintains a Standards Manual that, among other things, describes the skills, treatments and procedures that licensed EMS personnel in Idaho may perform. The Physician Commission, during quarterly meetings, refines the Standards Manual to reflect current best practices in emergency medical services. This legislation incorporates the latest version of the Standards Manual. **Dr. Sturkie** provided an overview of the changes to the Standards Manual and requested that the Committee adopt **Docket No. 16-0202-1001**.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #1).

In response to questions of the Committee with regard to what process the Physicians Commission goes through to update the Standards Manual, **Dr. Sturkie** advised that public hearings per se are not held, but minutes of quarterly meetings are posted online and feedback is received throughout the year. He stated that comments received are considered along with national scope of practice policies to update the manual on an annual basis. He noted that in the event of an emergency, an update could occur more frequently. **Vice Chairman Broadsword** noted that while **Dr. Sturkie** was presenting this docket she was able to click on the hyperlink to the Standards Manual embedded in the legislation and review the Manual. She stated this was an advantage of online rules review which she appreciates.

**MOTION:** **Senator Heider** moved, seconded by **Senator Vick** that the Committee approve **Docket No. 16-0202-1001**. The motion carried by **voice vote**.

**Docket No. 16-0301-1001** **Relating to Rules Governing Eligibility for Health Care Assistance for Families and Children (Pending):** **Kathy McGill**, Program Specialist, Division of Welfare, Department of Health & Welfare (DHW) advised this rule change will add a more detailed definition of a dependent child, emphasizing that a child must be financially deprived per federal guidelines in order for the child's parent or caretaker to qualify for Medicaid. She emphasized the change is to language only and there is no change to the actual eligibility criteria. **Ms. McGill** requested that the Committee approve **Docket No. 16-0301-1001**.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #2).

**TESTIMONY:** **Kelly Marlor**, a Boise High School Student, asked how this legislation will affect Medicare. **Vice Chairman Broadsword** advised that the legislation involves Medicaid, not Medicare, and that there would be no change in eligibility criteria.

**Senator Darrington** inquired of **Ms. McGill** if there are programs where there is a relationship between Medicaid eligibility and receiving Medicare. **Ms. McGill** indicated there are people who are eligible for both Medicare and Medicaid. She noted that one of the requirements for eligibility for Medicaid is that if a person is potentially eligible for the Medicare program they must apply for Medicare, thus taking some of the financial burden from the State. She further advised that the State also provides assistance to Medicare recipients in terms of helping some low income Medicare recipients pay Medicare co-payments or premiums. **Senator Lodge** asked for an explanation of the term "budget unit members." **Ms. McGill** advised that this consists of a financially needy child who is dependent, and certain other people living with the child. It could include the parents of the child, siblings of the child, and may include other related children, cousins, etc., if the household is also applying for them. In the absence of a parent in the household, it would include a caretaker relative, such as a grandparent or aunt or uncle. **Senator Bock** requested an explanation of how the SSI system works in relation to Medicaid and asked if a child receives Medicaid simply as a result of being the recipient of SSI income. **Ms. McGill** responded that a child who receives SSI is pretty much automatically guaranteed to also qualify for Medicaid in Idaho. The only reason they would not is if there was a residency problem or discrepancy in their social security number. **Senator Bock** asked if adults automatically receive Medicaid if they receive SSI. **Ms. McGill** advised that with adults there can be other criteria to consider. If there is a married couple and both members are SSI recipients the couple does sometimes need to choose which one of them is going to be eligible for Medicaid. **Senator Bock** asked If an unmarried man or woman receives SSI, would they be entitled to Medicaid. **Ms. McGill** responded yes, that is correct.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Nuxoll**, that the Committee approve **Docket No. 16-0301-1001**. The motion carried by **voice vote**.

**Docket No. 16-0301-1002** **Relating to Rules Governing Eligibility for Health Care Assistance for Families and Children (Pending):** **Ms. McGill** advised this rulemaking provides more choices for Idaho citizens seeking health coverage for their children, and will streamline the application process for children and families whose U.S. citizenship must be verified. In addition it updates the eligibility time period for special immigrants based on federal regulations that extended the eligibility time period, and adds language stating that an individual found eligible for Medicaid will receive services for 90 days while verification of U.S. citizenship and identity are pending.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #3).

In response to questions of the Committee, **Ms. McGill** advised that in the event verification of U.S. citizenship is not provided within the 90-day period, federal guidelines specifically say funds disbursed during the 90-day period will not be considered as overpayment on the part of the applicant and no payback of Medicaid funds would be required. She stated that each applicant gets only one reasonable opportunity period of 90 days to provide documents if electronic data match does not confirm citizenship. If an applicant reapplies at a later date, they must provide documents and there is a 10-day period before they can be approved for Medicaid coverage. Regarding the fiscal impact of \$120,714 noted in the Docket, **Ms. McGill** advised that this estimated figure has been revised as more recent info since publication of the docket indicates there are fewer special immigrants than estimated. The new fiscal impact is \$82,115 to the general fund. She further noted that the Children's Health Insurance Program (CHIP) was created in the 1990's as a way to assist families with children whose income limits were a little bit above the Medicaid income cutoff, but still had problems getting access to health insurance. The funding source is actually different than Medicaid and there are slightly different rules. She indicated SCHIP is the state's version of this program.

- MOTION:** **Senator Schmidt** moved, seconded by **Chairman Lodge**, to approve **Docket 16-0301-1002**. The motion carried by **voice vote**.
- Docket Nos.** **Relating to Rules Governing Eligibility for Health Care Assistance for Families and Children (Temporary);**
- 16-0301-1003**
- 16-0303-1001** **Relating to Rules Governing Child Support Services (Temporary);**
- 16-0304-1004** **Relating to Rules Governing the Food Stamp Program in Idaho (Temporary);**
- 16-0305-1003** **Relating to Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Temporary);**
- 16-0308-1002** **Relating to Rules Governing Temporary Assistance for Families in Idaho (Temporary);**
- 16-0612-1003** **Relating to Rules Governing Idaho Child Care Program (Temporary):**

**Kandace Yearsley**, Child Support Bureau Chief, Division of Welfare (Division), DHW, advised that these rules provide for the acceptance of electronic and telephonic signatures. She stated that the Division has implemented many technological and process improvements in the past few years including consolidated service units and electronic case records. These improvements have allowed the Division to meet the ever increasing need for services while maintaining quality. The ability to allow electronic and telephonic signatures will further maximize on these improvements, streamline practices, improve access to services, increase productivity, and better utilize technology. Currently a person who would like to apply for services must print an application, or pick it up at a local office, complete it and mail or deliver it to the nearest office delaying their ability to receive services and in many cases requiring them to take time off from employment. These technological solutions allow customers (especially those who reside in rural areas) to better connect with the services they need with the least possible interruptions to their daily work schedules by allowing customers to complete the application either by phone or online and submit the application the same way. These services increase the options a customer currently has to access the services within the Division.

**Ms. Yearsley** requested that the Committee approve these dockets.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment #4).

**MOTION:** **Senator Smyser** moved, seconded by **Senator Heider** that the Committee approve **Docket Nos. 16-0301-1003, 16-0303-1001, 16-0304-1004, 16-0305-1003, 16-0308-1002, and 16-0612-1003**. The motion carried by **voice vote**.

**GAVEL CHANGE:** **Vice Chairman Broadsword** concluded rules review and returned the gavel to **Chairman Lodge**.

**Chairman Lodge** stated that she had a request from some Committee members for an explanation of the difference between Pending Rules, Temporary Rules and Fee Rules. **Ed Holly** of the Office of Administrative Rules was in attendance and **Chairman Lodge** asked if he would be willing to review for the Committee the difference in the rules.

**Mr. Holly** advised that the Temporary Rules approved today will be in force until the end of the 2012 Legislative Session. Temporary Rules are approved by the Governor during the interim without legislative review and can include fee increases. **Senator Darrington** added that Temporary Rules do not survive beyond the end of the legislative session unless the Legislature extends by concurrent resolution. Temporary rules that are approved will be brought back as Pending Rules at the next Legislative Session.

**Mr. Holly** further advised that Pending Rules are not in effect and can be rejected. If the Legislature takes no action, they go into effect after the Legislative Session. If the Senate rejects and the House accepts, it will go through, because both houses must agree to reject. Pending Fee Rules are also not in effect but do not survive beyond the end of the Legislative Session unless the Legislature extends them by concurrent resolution.

**Senator Darrington** noted that all Pending Rules do not start out as Temporary Rules. Pending Rules may be promulgated as Pending Rules early in the interim in time to go through the negotiated rulemaking process so the public has input. They may or may not have been temporary rules. **Mr. Holly** added that fee rules need specific approval to go through. He further stated that a Pending Rule that is approved goes into the administrative code at that time as a final rule and will have a date of sine die unless the agency asks for a specific date which takes a concurrent resolution.

**Senator Darrington** further advised that a decision of the Supreme Court in Mead v. Arnell said that the Legislature can reject rules by concurrent resolution. If the Committee votes to reject a rule, a resolution has to be prepared and be passed by the Committee, the Senate, the House Committee, and the House to reject the rule. If one body rejects it and one accepts it, the rule goes into effect. Fee Rules, however, are not by default, and go into effect only if they are added into the resolution and approved by both the Senate and House.

**Mr. Holly** advised that a rule can be called up by any legislator during any legislative session, however there needs to be good reason. **Senator Darrington** added that there have been instances where agencies come in and ask for a rule to be rejected. This is a massive power the Legislature has. **Senator Darrington** also noted the power of the chair, advising that if one side of the Legislature rejects a Pending Rule and the chairman of the germane committee on the other side of the Legislature takes no action on the rule, it becomes effective.

**Chairman Lodge** encouraged Committee members to contact the Rules Office with any questions. She thanked **Mr. Holly** for his review and **Mr. Holly** complimented **Senator Darrington** on his history and knowledge of the rules.

**ADJOURNMENT:** Chairman Lodge reminded the Committee of the joint meeting with JFAC at 8:00 tomorrow morning and adjourned the meeting at 3:58 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

JOINT  
SENATE HEALTH & WELFARE COMMITTEE  
AND  
HOUSE HEALTH & WELFARE COMMITTEE  
AND  
JOINT FINANCE AND APPROPRIATIONS COMMITTEE  
8:00 A.M.  
WW02  
Wednesday, January 19, 2011

LOCATED IN THE CAPITOL LARGE AUDITORIUM, WW02

TIME	DESCRIPTION	PRESENTER
8:00 a.m. — 8:30 a.m.	Medicaid Questions and Answers	Leslie Clement, Administrator
8:30 a.m. — 9:10 a.m.	Substance Abuse Treatment and Prevention and Mental Health Services; LBB 2–87	Kathleen Allyn, Administrator
9:10 a.m. — 9:50 a.m.	Division of Welfare Self Reliance Programs; LBB 2–93	Russ Barron Administrator
9:50 a.m. — 10:00 a.m.	Break	
10:00 a.m. — 10:30 a.m.	Services for the Developmentally Disabled; LBB 2–19	Robert Luce, Administrator

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
JOINT MEETING  
**SENATE HEALTH & WELFARE COMMITTEE**  
**HOUSE HEALTH & WELFARE COMMITTEE**  
**JOINT FINANCE APPROPRIATIONS COMMITTEE**

**DATE:** Wednesday, January 19, 2011

**TIME:** 8:00 A.M.

**PLACE:** Room WW02

**SENATE  
MEMBERS  
PRESENT:**

Co-Chairman Lodge, Senators Broadsword, Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**HOUSE  
MEMBERS  
PRESENT:**

Co-Chairman McGeachin, Representatives Bilbao, Thayn, Wood(27), Guthrie, Roberts, Rusche, and Chew

**JFAC  
MEMBERS  
PRESENT:**

Chairman Cameron, Senators Keough, Broadsword, Bair, Brackett, Mortimer, Toryanski, Heider, Bilyeu and LeFavour; Representatives Bell, Bolz, Eskridge, Wood(27). Patrick, Hagedorn, Thompson, Vander Woude, Ringo, and Jaquet

**ABSENT/  
EXCUSED:**

Representatives Loertscher and Shepherd

**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.

**MINUTES:**

**Chairman Cameron** called the meeting to order at 8:03 a.m.

**Leslie Clement**, Administrator, Division of Medicaid, Department of Health and Welfare, summarized proposed cost savings with the 2011 budget, actual savings and price freezes. She then discussed limited cost savings opportunities and federal funding for hospitals, nursing facilities and intermediate care facilities. She stated physicians find Medicaid less attractive since it is a small percentage of revenue.

In response to questions, **Ms. Clement** stated that the Division has been asked to prioritize cost reductions to focus on pricing freezes. An extensive price study was done and they were able to eliminate areas where price reduction was not available. She would like to spend more time talking about pharmacy and physician price reductions and inflation factors in the germane committee meetings.

Regarding the management of prescription drug costs with different pricing methodologies, there is a preferred drug list in place and both state and federal levels offer rebates. They are looking to the federal government for help to get a true cost, as opposed to the average wholesale price.

The Department is reviewing physician pricing and compliance so it is not higher than Medicare prices. There is a primary care case management fee of \$3.50 per member. They are in the process of restructuring to pay less for the healthier population, using the various Health and Welfare plans offered. There would be a small increase in after-hour office visits, to encourage doctor visits instead of emergency room visits.

In response to questions regarding changing caps on prices, **Ms. Clement** stated that it depends on the policy source. Federal laws allow an assessment rate of 5.5%. Hospitals are at 2%, nursing homes are near 5%, and intermediate care facility rates are not currently available. Changes are needed in the statute concerning assessment to reduce the scope of benefits and services offered by state agency rules, or eliminate the benefits and categories by amending the statute.

**Ms. Clement** indicated that changes would have to be reviewed for a cost shift, to eliminate lower-priced preferred service and leave the high cost service. Waiver eligibility and the Americans with Disabilities Act both help to lessen restrictions to receive services. She recommended that policy discussions prioritize needs, where resources should go, and balance cost shifting to achieve the 10% reduction needed. The Department can determine or limit co-pays. Providers can refuse service to individuals that cannot make the co-payment, and It is possible to collect co-pays for non-emergency, but not for emergency services. Tier budgets are one way to manage services based on the budget and the child's need for service. Service coordinators at the local level could help individuals in this way.

**Ms. Clement** stated that due to federal mandates, they are unable to reduce children's benefits, but that it would be possible to eliminate the State's psychosocial rehabilitation (PSR) services, which is an optional adult benefit. She discussed the possible consequences of eliminating the current PSR services, which have come under criticism and debate. She stated that this would not solve the long term statewide medical issue, and recommended instead moving forward with a comprehensive approach for mental health services in Idaho making sure providers are qualified and competent. She expects positive outcomes that would be apparent with the use of those services.

**Chairman Cameron** noted that it would be JFAC's preference that necessary changes be made in statute rather than in rule. The committee agreed to seek input from other committees and move forward one step at a time.

**PRESENTATION:** **Kathleen Allyn**, Administrator, Division of Behavioral Health, indicated her Division is requesting their FY 2012 budget be set at \$93.7 Million. This figure is 4% of the total Department's expenses and covers three categories: Mental Health Services, Substance Abuse Treatment and Prevention, and Psychiatric Hospitalization. Mental Health receives about 36% of the funding, Substance Abuse Treatment receives over 32%, and Psychiatric Hospitalization receives just less than 32%.

Division clinicians provide mental health services primarily to court ordered and uninsured adult clients. Private providers, managed through the Division, deliver children's mental health and substance abuse disorder services. Acute mental health care is available at the State's two psychiatric hospitals. The adult mental health program operates seven regional mental health clinics throughout the State. Each region provides an assertive community treatment (ACT) team that works with the mental health courts as well as with community clients. Adult mental health clinicians also work closely with Regional Department of Correction staff to provide treatment to criminal justice clients with mental illness. Adult mental health services directly impact the number of referrals to the State psychiatric hospitals. Crisis intervention services can prevent the need for admission to the hospitals. Crisis holds, where the patient is a danger to himself or others, have increased, and the number of evaluations has increased. Crisis services are provided without regard to income or other status. Personnel costs makes up a large part of the adult mental health budget.

The children's mental health program is a privatized program with respect to many services. State staff provides assessments and case management services but most children are referred to private Medicaid providers for ongoing treatment. State staff also works closely with Department of Juvenile Corrections staff to assist criminal justice involved youth with mental illness and their families. Children services have more trustee and benefits funding, due to a greater share of services delivered by private providers.

Most of the funding for mental health services comes from State general funds. Mental Health Grants are also appropriated by the Legislature to fund community-developed mental health and substance use disorder projects. They are entirely State general funds. Currently there are two on-going grants. The JoAn Wood pilot project in southeastern Idaho receives about \$1.1 Million per year and the Detox/MH crisis facility in the Treasure Valley receives about \$790,000 annually in on-going funds.

In response to questions, **Ms. Allyn** clarified that each client with other insurance is contracted by letter with a follow-up to find possible placement and to make sure they receive the requested services. In regards to cost management, the Division's strategies have decreased the number of hospitalizations needed. Concerning children and school mental health services, there is a mental health clinician, although many parents have already secured a private provider. She confirmed that the Division has received complaints about the timeliness of the assessment report and information. Help is being solicited from counties, courts, and corrections to speed up this process. Regarding this assessment coordination, the pre-sentencing investigation officer and the Mental Health and Substance Abuse Division are getting closer to an acceptable solution. The Division has experienced some difficulties as a result of the disbanding of the Idaho Council on Children's Mental Health; however, several regions have maintained mental health councils. The reduction of some of these adult mental health personnel has lessened the budget deficit.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #1).

**Ms. Allyn** outlined the budget for the Division of Substance Abuse, Treatment and Prevention. This covers prevention programs, treatment services, and regulatory work. The majority of their clients are either in or re-entering the community from the federal justice program. Sixty percent of their operating costs are used for a contract with Business Psychology Associates. There is also an Access to Recovery Grant, totaling \$13 Million over four years, a federal grant to support the Web Intra Treatment System, and a reauthorization of State Epidemiological Outcomes Workgroup Grant, with spending authority for \$200,000.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #2).

**PRESENTATION: Russ Barron**, Administrator for the Division of Welfare Self Reliance Programs, outlined the Division's budget request for the Self-Reliance Programs. He indicated that Food Stamp benefits are not reflected in the budget, as they are federally distributed to recipients. Child support payments collected and delivered are also not reflected in the budget. With few exceptions, these benefits are all federal funds or all state funds, depending on the program. Federal stimulus funds have been available over the past two years, but will not be available in 2012.

He advised that the Self Reliance Programs consist of Food Stamps, Child Support, Medicaid eligibility, several Community Services Block Grant programs, Emergency Food assistance, Low Income Home Energy Assistance, Cash Assistance through the Aged, Blind and Disabled program, Child Care Assistance, Temporary Cash Assistance for low income families and children, and the Weatherization program.

**Mr. Barron** advised that caseloads increased dramatically as food stamp requests went up almost 40% between July 2009 and July 2010. Productivity has improved in work loads and staffing. This is attributed to changes in processing, technology, policy, and risk management. One of the Divisions keys to success has been changing processes and striving to provide same-day service. Currently they are able to process about 75% of applications the same day.

He stated that serving more people in the history of the Division emphasizes the importance of adequate automation support. The Division is currently at risk of not being able to maintain IBES, the eligibility system, at an acceptable level. The Division is requesting additional funds for next year to mitigate this risk.

**Mr. Barron** presented the following Governor recommended budget requests:

- Federal spending authority of \$21,965,000 in FT 2011 for one time ARRA funds to be spent on programs such as Weatherization, Community Services, Child Care, and Food Commodities;
- State general fund spending authority of \$854,000 for increases in AABD caseload for FY 2011;
- State general fund spending authority of \$1,085,300 for increases in AABD caseload for FY 2012;
- Grocery Credit Receipt authority of \$560,700 to help supplement energy costs for low-income households;
- State general fund spending authority of \$195,000, to be matched by federal funds for necessary maintenance and support of the IBES system.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #3).

**PRESENTATION:** **Robert Luce**, Administrator, Division of Family and Community Services, DHW, presented an overview of Community Developmental Disabilities and the Idaho State School and Hospital (ISSH). With current budgets, they are trying to do more with less and still recognize areas of risk. These programs help Idahoans with developmental disabilities and their families live productive lives in their communities.

**Mr. Luce** related the importance of the services functioning together in a continuum, like building blocks, and the effect one altered service has on other services. The Infant Toddler Program (ITP), the least costly of their programs, aids children to increase their developmental milestones and get them back on track at grade level by age three. This program reduces the chance that these children will later need Community Developmental Disability services or stabilization through the ISSH. The Division is currently out of compliance with the federal performance targets in the ITP program and operating under a Plan of Correction. Adequate resources are needed to maintain current performance or to improve, threatening their licensure and federal match dollars.

The Division also has a crisis prevention network, which helps individuals stay in their homes and lessens the census at the ISSH. This transition program is the gate keeper to the ISSH, a safety net for those individuals with severe developmental disabilities who cannot reside safely in the community.

The Family and Community Services Division allocations represent 4.2% of the Department's budget request. Full-time employees have been reduced in the last year and a half, and there are many vacant unfunded positions. The Division is concerned about being able to maintain the crisis prevention network, the performance targets for child identification and timely services, and sustaining the program's compliance with regulations and licensure at ISSH. Fewer infants and toddlers were served in 2010; many lost the opportunity last year to be involved in the program's services and get back on track by age three. This lack of early intervention will likely cost the state more dollars for higher cost programs down the road. The daily cost for an individual to reside at the ISSH is approximately \$700. Overall the Division struggles to be effective with inadequate funding to support families with developmental disabilities.

In response to questions regarding an analysis of federally mandated programs for Health and Welfare, to differentiate between funding amounts and federal matching, **Mr. Luce** stated that he could provide this for the committee later. **Cameron Gilliland**, also with Family and Community Services(FACS), was called upon and indicated their commitment to schools will not alter services for at least one year. They will meet with schools and other stakeholders to address issues as they arise. Also, the new system with an asset test for food stamps estimated a 5% increase for FACS. In response to additional questioning, he stated that there are income guidelines for AABD, which can be provided for the Committee members, as well as a monthly forecasting report for the Division.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #4).

**ADJOURN:** There being no further business to come before the joint committees, the meeting was adjourned at 10:34 a.m.

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Co-Chairman Senator Cameron  
JFAC

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Co-Chairman Senator Lodge  
Chairman Senate Health & Welfare

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Lois Bencken  
Secretary

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Co-Chairman Janice McGeachin  
Chairman House Health & Welfare

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, January 19, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>16-0304-1002</b>	Rules Governing Food Stamp Program in Idaho (Pending)	Rosie Andueza
<b>16-304-1003</b>	Rules Governing Food Stamp Program in Idaho (Pending)	Rosie Andueza
<b>16-0308-1001</b>	Rules Governing Temporary Assistance for Families in Idaho (TAFI) (Pending)	Rosie Andueza
<b>16-0305-1002</b>	Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Pending)	Callie King
<b>16-0612-1001</b>	Rules Governing Idaho Child Care Program (ICCP) (Pending)	Genie Sue Weppner
<b>16-0612-1002</b>	Rules Governing Idaho Child Care Program (ICCP) (Pending)	Cheryl Bowers

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
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email: lbencken@senate.idaho.gov

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, January 19, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:05 p.m. and welcomed guests. She provided the Committee with a booklet from the Department of Health & Welfare showing facts and figure trends for FY 2010 and 2011. She passed the gavel to **Vice Chairman Broadsword** to begin rules review.

**Docket No. 16-0304-1002** **Rules Governing Food Stamp Program in Idaho (Pending): Rosie Andueza**, Program Manager, Division of Welfare, Department of Health and Welfare (DHW), stated that the intent of the rule change is to make a permanent change in the eligibility requirement for Food Stamps that will help Idahoans put food on their tables without having to deplete all of their resources, forcing them deeper into poverty. The rule proposes an asset test of \$5,000 as the new limit for all households applying for Food Stamp benefits in Idaho. She further stated that regardless of a family's assets, in order to qualify for food assistance, the family must have incomes that fall below 130% of the federal poverty level. **Ms. Andueza** requested that the Committee approve **Docket No. 16-0304-1002**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #1).

**Vice Chairman Broadsword** asked **Ms. Andueza** to clarify that if this rule does not pass it will go back to the previous rule requiring an asset test of \$2,000, not the temporary rule currently in effect that requires no asset test. She responded that is correct.

In response to questions of the Committee, **Ms. Andueza** advised that the asset limit was historically \$2,000 to \$3,000. In June 2008 DHW temporarily suspended the asset test due to the economy. That temporary rule expires at the end of this legislative session and unless this rule is passed, the asset test will revert back to the \$2,000 asset limit. This rule increased the asset limit, but does not increase the amount of Food Stamp benefits. She stated that when an applicant declares assets, the family must provide verification of those assets. DHW does not make home visits for this purpose but does have a quality control process where cases are randomly selected for home visits. She advised the no asset test was not extended due to input from the public, House members, and the Governor's Office seeking a reinstatement of an asset test, but raising that limit from \$2000. She further stated that charities support this rule as they are challenged to provide the needs of the public and with passage of this rule those with assets above \$2,000 but below \$5,000 will become eligible for Food Stamp benefits. **Ms. Andueza** reviewed some excludable assets that are not considered in the eligibility determination including household goods, personal effects, family home, one vehicle per adult

household member, livestock, pension plans, and educational accounts. She noted that recreational vehicles are counted in the asset test.

**TESTIMONY:** **Melanie Roper**, Legislative Advocate for Catholic Charities of Idaho, spoke **in support of Docket 16-0304-1002**. She stated that having enough food to eat is vital to the development of children, vital to the health of our seniors, and vital to the productivity of our workforce.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #2).

**TESTIMONY:** **David Irwin**, Director of Government Affairs for AARP in Idaho, spoke **in support of Docket 16-0304-1002**. He stated an increase in the Food Stamp asset limit to \$5,000 will help more of our State's elderly, children and families have access to needed food.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #3).

**TESTIMONY:** **Karen Vauk**, President & CEO of the Idaho Foodbank, spoke **in support of Docket 16-0304-1002**. She outlined the services provided by the Idaho Foodbank and the changes they have seen as a result of the recession. She stated this rule would have a positive impact on the hunger condition in the State.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #4).

**Vice Chairman Broadsword** asked what the Idaho Foodbank is doing to bring attention to the checkoff on tax returns so that more Idahoans can help those in need. **Ms. Vauk** advised that there was a positive response last year and the Foodbank received over \$100,000 through those donations. A marketing campaign is now being launched. **Vice Chairman Broadsword** suggested that as part of that campaign they contact the Idaho CPA Association and request that they share that possibility with clients.

**TESTIMONY:** **Timothy McFarland**, Executive Pastor, CEO, of Vineyard Christian Fellowship, spoke **in support of Docket 16-0304-1002**. He advised they serve over 800 families per month from their food pantry and community garden.

**TESTIMONY:** **Kristen McGinnis**, representing ICAN families spoke **in support of Docket 16-0304-1002**. She stated that the Food Stamp program is one of the most essential tools to fight hunger in Idaho.

**MOTION:** **Senator Bock** moved, seconded by **Senator Heider**, that the Committee adopt **Docket 16-0304-1002**. The motion carried by **voice vote**.

**Docket No. 16-0304-1003** **Relating to Rules Governing Food Stamp Program in Idaho (Pending):** **Ms. Andueza** advised that the Food Stamp program in Idaho has experienced unprecedented growth. With a 41% increase in caseload, Idaho topped the nation as the state with the largest growing caseload during FY 2010. These rule changes are being made to align the food stamp program rules with federal regulations and other benefit programs. These changes will improve DHW's accuracy and processes when determining participant eligibility for Food Stamp benefits. The changes include clarification of income that is excluded, special immigrants with refugee status, process for returned mail and adjustment of benefits when a participant's death becomes known to DHW. She requested the Committee adopt **Docket No. 16-0304-1003**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #5).

In response to questions of the Committee, **Ms. Andueza** responded that based on the Farm Bill of 2007 which sets forth how soon action can be taken once something is reported, DHW was under the impression that no action could be taken on a death until the case came up for review. They can in fact act on it immediately and are now doing that. She stated that food stamp cases are reviewed every six to twelve months and recipients are required to report if their situation improves and they no longer are eligible. DHW does use some discretion if income raises only slightly above the eligibility level so as not to unfairly penalize the recipient. She did advise that if someone is aware of an individual who receives food stamps after becoming ineligible, they can call the 211 Care Line and report that fraud. She stated that if ineligibility is found DHW can go back and redetermine the time in question and if an individual received food stamp benefits they are not entitled to they are required to pay the benefits back. Addressing situations of temporary income of census workers, **Ms. Andueza** advised that DHW has been given options by the federal government as to whether that income is counted. In Idaho the decision was made to exclude it because of the economy. **Senator Vick** noted that there are many other part time jobs like construction, where people know they are only part time jobs and he feels it is unfair to make an exception for census work only.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, that the Committee adopt **Docket No. 16-0304-1003**. The motion carried by **voice vote**.

**Docket No. 16-0308-1001** **Relating to Rules Governing Temporary Assistance for Families in Idaho (TAFI) (Pending):** **Genie Sue Weppner**, Program Manager, Division of Welfare, DHW, advised that in order to better support and assist Idaho's low-income individuals in need of temporary assistance, DHW is amending these rules to align with federal regulations and other Department chapters on excluded resources and special immigrants. The U.S. Census that is conducted every ten years hires temporary employees to conduct this field work. DHW is excluding this temporary census income from countable income in order to treat income for TAFI the same as other benefit programs. Federal regulations updated the special immigrants length of eligibility and these rules are being amended to align with those updates. This rule also removes barriers that have excluded participation under the Career Enhancement (CE) services to help participants obtain or maintain employment. These changes will align with Emergency Assistance services by: removing the requirement to have a job search assistance plan, removing the restriction from CE services for anyone who received emergency assistance payments in the past 12 months, and removing housing and utility costs from prohibited supportive service expenditures. **Ms. Weppner** requested that the Committee adopt **Docket No. 16-0308-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #6).

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Bock**, that the Committee adopt **Docket No. 16-0308-1001**. The motion carried by **voice vote**.

**Docket No. 16-0612-1001** **Relating to Rules Governing Idaho Child Care Program (ICCP) (Pending):** **Ms. Weppner** advised that this rule change allows for the exclusion of Census income for temporary Census employees when determining eligibility for ICCP and aligns this treatment of income with the way other benefit programs treat this income. She requested that the Committee adopt **Docket No. 16-0612-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #7).

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Bock** that the Committee adopt **Docket No. 16-0612-1001**. The motion carried by **voice vote**.

**Docket No.  
16-0305-1002**

**Relating to the Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Pending): Callie King**, Program Specialist, Division of Welfare, DHW, stated that due to changes in federal regulations and the expiration of the ISSH Waiver from the Medicaid State Plan, these AABD rules are amended to:

1. Allow for the use of electronic data transfer from the Social Security Administration to verify U.S. citizenship and identity as provided in Public Law 111-3, Section 211;
2. Change the eligibility time period for Afghani and Iraqi special immigrants to comply with changes in Public Law 111-118, Section 8120; and
3. Remove references to the Idaho State School and Hospital (ISSH) Waiver as it is no longer available as of January 1, 2010.

These changes in the AABD Program rules simplify the verification process for citizenship and identity and bring Idaho fully into compliance with federal regulations. She requested that the Committee adopt **Docket No. 16-0305-1002**

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #8).

In response to questions of the Committee related to proof of citizenship, **Ms. King** stated that it does not typically take 90 days to verify citizenship, but the federal government requires that an individual be given 90 days to provide verification if necessary. She indicated that there are very few people who are not matched through on-line databases which verify citizenship, not just social security number.

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Bock**, that the Committee adopt **Docket No. 16-0305-1002**. The motion carried by **voice vote.**, with **Senator Nuxoll** voting "Nay."

**Docket No.  
16-0612-1002:**

**Relating to Rules Governing Idaho Child Care Program (ICCP) (Pending): Cheryl Bowers**, Program Specialist, Division of Welfare, DHW, advised that these Idaho Child Care rules are being amended to be more effective and user friendly for Idahoans to access the program. These rules have been reorganized, repetitive requirements have been removed, and clarification has been added for how income and qualifying activity is calculated. Application time frames are being clearly defined in order to streamline eligibility determinations. The changes will improve program quality and customer service, while conserving staff resources. She requested that the Committee adopt **Docket No. 16-0612-1002**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #9).

In response to questions of the Committee, **Ms. Bowers** advised that DHW does not anticipate this will save actual man hours, it is anticipated that the streamlined eligibility determinations will allow DHW to use the shorter processing time lines across other programs. **Vice Chairman Broadsword** complimented the Division under direction of Director Barron as being one of the most efficient within DHW.

**MOTION:**

**Senator Schmidt** moved, seconded by **Chairman Lodge**, that the Committee Adopt **Docket 16-0612-1002**. The motion carried by **voice vote**.

**ADJOURN:**

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** who reminded the Committee of the Joint Meeting in the Auditorium on January 20th 3:00 p.m. There being no further business the meeting was adjourned at 3:20 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

JOINT  
SENATE HEALTH & WELFARE COMMITTEE  
AND  
HOUSE HEALTH & WELFARE COMMITTEE  
3:00 P.M.  
WW02  
Thursday, January 20, 2011

Please Note Room Change to Auditorium

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Medicaid Cost Drivers and Cost Components, focusing on data and costs related to budget discussions	Leslie Clement, Administrator

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
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MINUTES  
JOINT MEETING  
**SENATE HEALTH & WELFARE COMMITTEE**  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, January 20, 2011

**TIME:** 3:00 P.M.

**PLACE:** Auditorium Room WW02

**SENATE MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, and Schmidt

**HOUSE MEMBERS PRESENT:** Chairman McGeachin, Vice Chairman Bilbao, Representatives Loertscher, Shepherd, Thayn, Wood, Guthrie, Roberts, Rusche, and Chew

**ABSENT/ EXCUSED:** Senator Bock

**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.

**MINUTES:** **Vice Chairman Bilbao** called the meeting to order at 3:06 p.m.

**PRESENTATION:** **Leslie Clement** and **Paul Leary** of the Department of Health and Welfare's Division of Medicaid, presented information on Medicaid cost drivers and components. **Mr. Leary** delineated the 11 major cost drivers within Medicaid. He spoke first about Inpatient Hospital Benefits, which are federally mandated, with projected 2012 spending at \$258.6 Million. The projected spending includes both in-state and out-of-state hospitalizations. More adults are being seen as inpatients and the cost per adult is going up, with the largest cost being room and board. Also driving costs are the Newborn Intensive Care Unit (NICU), as well as labor and delivery. **Mr. Leary** noted that in general, Medicaid treats higher risk pregnancies and those where prenatal care was not given early on in the pregnancy. Qualis Health reviews and manages these cases.

**Mr. Leary** outlined the costs for Outpatient Hospital Benefits, which are also federally mandated. Projected 2012 spending in this category is \$108.5 Million. Twenty percent of the spending in this category is for speech, occupational and physical therapy, and an additional 20% is paid for emergency room care. Private therapy providers have a different model of reimbursement. Outpatient Hospital Benefits are managed by Primary Care Case Manager (PCCM), with referrals or prior authorization. In response to questions, **Mr. Leary** advised that the current Medicaid federal match is at 78% but that will soon drop to 69%.

Regarding Prescription Drugs, **Mr. Leary** said that these are state-optional benefits, with 2012 projected spending of \$153.7 Million. This reflects the amount paid to pharmacies, not the net cost for pharmaceuticals, and does not include rebates which will reduce the overall budget. About one-third of this spending is for mental health prescriptions. By law, Medicaid should receive the lowest cost from manufacturers for their drugs, most of whom offer federal rebate programs. There is a state maximum allowable cost (SMAC) that identifies generic and multiple manufacturers' average cost and markup. There is a panel that examines the various classes of drugs and looks for equivalent drugs and supplemental rebates. These are all controls to achieve the lowest drug costs. The prescription cost and rebate together generate the true net cost of each drug. In response to questions, **Mr. Leary** stated that there may be cost savings between using low and high volume pharmacies, but federal law prohibits establishment of a formulary, so there are other processes to determine uniform prices.

**Mr. Leary** next shared information on Physician Benefits, which are federally mandated, with 2012 projected spending of \$119.4 Million. Much of this projected spending is for children receiving checkups and immunizations. There is a fee for benefit, and cases are managed through PCCM. Cost reductions can be found by freezing rates, utilizing the correct coding initiative, new edits, and case management fee restructuring. Physicians are now reimbursed \$2.50 for each patient on the basic benefit plan. If the physician has extended hours, there is a 50 cent increase. These policies are being adopted statewide. In response to questions, **Mr. Leary** advised that a referral is required to see a specialist the first time, but the specialist can continue to treat the patient without further referrals.

**Mr. Leary** explained that dental benefits are a state-optional program for adults with services for children falling under Medicaid. The 2012 projected spending is \$51.9 Million, depending on the contracted services. These services are based on a capped rate per member, per month, and are under a managed care contract. In response to questioning, he explained that if adult optional dental services were to be eliminated, the State Plan would have to be amended by Medicaid, not the Legislature. Also he added that in December, there was a re-bid on the entire dental benefits plan and those services are now handled through one contractor and providers are now under new contracts. Not all provider contracts were renewed. The criteria to select providers was determined by the contractor.

**Leslie Clement** described the State Plan as an agreement between the federal government and the state. It states what benefits are provided and what qualifications are required of providers, outlining their scope, rates paid, and eligibility. The state has some flexibility with their plan through the use of some types of waivers. Waivers are special requests from the state to the federal government that say we want to do something as an alternative.

**Ms. Clement** presented the federally mandated nursing facility benefits. There are currently 8 children and 5,021 adults participating in the program. The 2012 projected spending is \$167.9 Million. Services are provided for individuals with advanced health care issues, who are on the enhanced plan. This includes 24-hour nursing care, rehabilitation and assistance. The primary driver for these costs is the number of days of service. Over half of the residents paid for by Medicaid had stays over 270 days. The prospective payment may have direct or indirect caps and the rates vary across the state between urban and rural areas.

**Ms. Clement** addressed the Aged and Disabled (AD) Waiver, which serves a few children, ages 18 to 21, and nearly 10,000 adults, with a 2012 projected spending of \$130.2 Million. This is a state optional benefit with a fee-for-service reimbursement. To qualify for this service an individual must meet a level of care criteria. The criteria is determined by regional staff and Department nurses throughout the State. Services rendered must also meet cost effectiveness standards. The current costs are up, as are the number of users, which is also expected to grow as the population ages. The three main areas of care are: attendant care or personal care services (PCS), and residential assisted living facilities (ALF). Adult foster care is included, as well as a small number of services provided for those who live in certified family homes (CFH). Only services are paid under this benefit and it does not include room and board. In response to questions, she indicated that if an individual in an assisted living facility or certified family home receives a cash payment for room and board, that is handled through the Department of Welfare. She emphasized the Medicaid Division only makes payments to providers for services provided.

The Developmental Disability (DD) Waiver was also presented by **Ms. Clement** as another state optional benefit, with 2012 projected spending of \$93 Million. Individuals must be 18 years or older to receive these services. Some benefits must be in place to allow these clients to live and function in the community. Intermediate and intellectual care facilities are utilized, as well as services to residential rehabilitation agencies. The primary cost drivers are caseloads and cost per user. There is a fee for service and an allocated resource amount that each individual cannot exceed.

In response to questions, **Ms. Clement** indicated that individuals using the DD Waiver may have a low IQ or difficulty with behavior management. They must receive active treatment which trains and teaches them how to do things by themselves. There are many requirements for therapy, and the costs can be daily or hourly, depending on the type of service and utilization. The Department is reviewing reducing waiver services. Many of the CFH providers are owners getting certified to take care of family members. There has been some debate about these CFH providers, but they are more cost effective than supported living. Also in response to questioning, **Ms. Clement** explained that it is possible for costs to be shifted for individuals who have commercial health insurance coverage. Population management can also be considered.

**Ms. Clement** provided information on Intermediate Care Facilities (ICF), a state optional benefit, with 2012 projected spending of \$44.6 Million. The purpose is to provide health and rehabilitation services to persons with intellectual disabilities, to help them gain maximum independence. Most users stay in these facilities more than 270 days.

Another category outlined by **Ms. Clements** was DD centers, a state optional benefit with 2012 projected spending of \$70.9 Million. There is a fee for these services, most of the clients are children in the enhanced plan, and there is a maximum number of hours allowed per week. In response to questioning, **Ms. Clement** clarified that the Division of Medicaid does not provide any services. The Family and Children Services (FACS) provides services, whereas the Division of Medicaid reimburses providers for services. These programs can work in tandem; however, their criteria are different.

Regarding Psychosocial Rehabilitation (PSR), **Ms. Clement** commented that these state-optional benefits have a 2012 projected spending of \$88.3 Million. These services are community based, most users are on the enhanced plan, and a managed-care approach is used. The caseloads are up, but the cost-per-user has gone down due to a weekly limit on hours. There have been administrative reductions, new hard caps added, and duplication edits.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #1).

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 4:58 p.m.

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Senator Lodge  
Co-Chairman

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Lois Bencken  
Secretary

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Representative Bilbao  
Chairman

JOINT  
**SENATE HEALTH & WELFARE COMMITTEE  
AND  
HOUSE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Monday, January 24, 2011

LOCATED IN THE CAPITAL LARGE AUDITORIUM, WW02

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Presentation</b>	<b>Developmental Disability Waiver Services and related State Plan benefits</b>	<b>Paige Grooms</b>
<b>Presentation</b>	<b>Children's Re-design</b>	<b>Lauren Ertz</b>
<b>Presentation</b>	<b>School-based Services</b>	<b>Lauren Ertz</b>
<b>Presentation</b>	<b>Aged and Disabled Waiver Services, including a discussion of State Plan Personal Care Services</b>	<b>Natalie Peterson</b>
<b>Presentation</b>	<b>Mental Health Benefits, short and long-term planning</b>	<b>Pat Guidry</b>

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
JOINT MEETING  
**SENATE HEALTH & WELFARE COMMITTEE**  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, January 24, 2011

**TIME:** 3:00 P.M.

**PLACE:** Auditorium Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

Chairman McGeachin, Vice Chairman Bilbao, Representatives Thayn, Wood, Guthrie, Rusche, and Chew

**ABSENT/ EXCUSED:** Representatives Loertscher, Shepherd, and Roberts

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:08 p.m.

**PRESENTATION:** **Leslie Clement**, Director, Division of Medicaid, Department of Health & Welfare, introduced **Lauren Ertz**, Alternative Care Coordinator, Division of Medicaid, who is presenting the Children's System Redesign of the Developmental Disability (DD) Services.

**Ms. Ertz** detailed the history of the redesign, the development of the benefits, the open houses, the parent and provider surveys, the rulemaking meetings, and the public meetings. She then discussed the redesign objectives, which increase the opportunities for family involvement, improve the quality of services, have service options that include supports in addition to therapy, and are cost neutral.

**Ms. Ertz** described the current and redesign benefits, which replace Intensive Behavioral Intervention (IBI) with support services that include respite, habilitative supports, and family education. The focus is on integration into the community, which gives more learning opportunities among peer groups and removes the burden on the provider so the child can just be a child. The family education includes strategies to use with the child.

Another redesign benefit is intervention services, which teach children new skills and adaptive behavior. Crisis intervention is a direct consultation about the child with an Emergency Medical Technician (EMT) service on a 24-hour basis to help the family through the situation and focus on in-home crisis intervention. She then described collaboration services, which combine family training, interdisciplinary training and therapeutic consultation, stating that family involvement is necessary to get the best outcome.

**Ms. Ertz** described the DD continuum of services, which focuses on age groups from birth to 17 years of age, and the Act Early Waiver which focuses on children age 3 to 6 years of age. In outlining the individual participant budgets, she detailed the number of participants by category, the redesign budget, the current average budget per child, redesign budget per child, and distribution percentages. The timeline for the children's redesign shows a 15-month phase-in process to begin in July 2011.

In response to questions from the Committee members, **Ms. Ertz** stated that the benefit package is unique to Idaho and modeled after the advanced DD system. Most other states offer children's waiver programs, but only a few states are using the authority options. Within the children's DD population are different levels of need. Use of an independent assessor will be the same dollar amounts that are currently spent on assessments.

Replying to a staffing question, **Ms. Ertz** said the existing staff would be performing most of the family-centered planning, but would have to use contractors and existing dollars to provide services outside the staff capabilities. The adult DD population in the current system will be removed from the State Plan, so the Department will work with the adult stakeholder groups to find out what needs to be replaced. DDA providers will coordinate the school-based services.

The individual participant budget indicates a change in children aged 3-6 with behavioral issues from \$10,404 as a current average budget per child, to \$29,300 for the redesign budget per child, which is a specific category that is currently being under-utilized and is shifting participant dollars from other categories, such as the Children with DD category. During family training, the amount of involvement of the family or guardian would be determined for any intervention. Speech therapy is not in the DD benefits, but is a part of the Medicaid State Plan.

There is a concern in rural areas that qualified providers would be difficult to find, so they are considering Telehealth, which communicates through computer live chat rooms with a high level of expertise. This type of help is being used in hospitals to get effective diagnoses. Also the regular support staff does not require a Masters or BA level of education, so this type of expertise would only be needed for crisis services, which has a low number of participants.

Supporting documents relating to this testimony have been archived and may be accessed in the office of the Committee secretary (see Attachment #1).

**Ms. Ertz** then presented information on Medicaid School-Based Services. She began by discussing legislative changes and the history of the Individual with Disabilities Education Act (IDEA). Comparisons to surrounding states show that only Idaho, Nevada and Utah offer collateral contact. Idaho is the only state that offers IBI evaluation, interpretive services, and developmental therapy and evaluation.

She then detailed the recent school review findings, which were done in anticipation of the possibility of a federal audit. **Ms. Ertz** stated that they were concerned that Medicaid was being billed while the child was receiving other therapy services, was sleeping, was absent, there was no school, and the amounts of time billed were unrealistic. They also noted the staff would often use classroom aides to provide the services.

Responding to questions from the committee members, **Ms. Ertz** said that IBI and developmental therapy will continue. She said that discussions with educators will determine how to fill the gap between intervention collaboration supports and Medicaid.

Respite support services would not work in the school setting since it is for families who need relief from their care giving. The cost is lower than intervention or rehabilitation services with less requirements. Qualifications for respite services are minimum with 16 years of age, if provided in a center, and 18 years of age if independent care, with basic CPR and first aid training. Relatives are allowed to provide respite services.

All Idaho benefits have gone through the legislative process as compared to other states who have basic benefits in the state plan with home or community benefits in a waiver program.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #2).

**Ms. Clement** explained that the intent is to provide a normal environment for education instead of a specialized environment. The appearance in Idaho is that Medicaid is funding education benefits to a moderately increasing population. There remains the concern that a federal audit could occur and discrepancies could lead to removal of federal funding with a penalty payback amount. Efforts with sample audits are pro-active to identify and correct any problems. **Ms. Clement** stated an audit was expected in 2010, but it did not happen.

**PRESENTATION: Paige Grooms**, Alternative Care Coordinator, Adult Care Programs, Division of Medicaid, presented information on the services for adults diagnosed with DD, which is unique in Idaho since it is offered on a state plan and also through a 1915c Waiver for home and community-based services. She then described the eligibility requirements, explained the various aspects of developmental therapy, detailed the DD Waiver, institutional level of care, independent assessment of needs and budget, the Department care management, and the consumer direction option.

In response to questions from the committee, **Ms. Grooms** explained the difference between the State Plan and Developmental Disabilities Agencies' (DDA) services. She said that the State Plan can not target benefits and offer them to eligible individuals on an hourly fee-per-service basis. DDA can be accessed on a waiver or non-institutional level of care for individuals in the community and offered to the population not meeting the institutional level of care. The H 701 cash grant reduction had an impact on the Certified Family Home (CFH) providers, since they use the funds to pay for room and board. CFH providers can also be impacted by consumer-directed services. The Idaho State Center, which does independent assessments, had a contract reduction last year to align with cost-containment measures. Services are being provided in a way that continues the integrity of the evaluation process. The Department continues to review outcomes and monitor them to maintain quality of service. The provider perspective for developmental therapy is the most cost effective, but there is the challenge of no outcome definitions by which to measure.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #3).

**PRESENTATION: Natalie Peterson**, Bureau Chief, Long-Term Care Program, Division of Medicaid, presented information on the Aged and Disabled (A&D) Waiver. She described the waiver's intent, eligibility requirements, provider types, and available services. She then compared the costs of nursing facilities and the waiver. **Ms. Peterson** discussed the Personal Care Services (PCS) State Plan for adults and the A&D Waiver opportunities, which included the Money Follows the Person Grant.

In answer to questions from the Committee, **Ms. Peterson** stated that they have requested \$8.9 Million for total state and federal funds. The current federal medical assistance percentage (FMAP) is approximately 79%, and the state match would be approximately 21%. The Money Follows the Person Grant is an opportunity for marketing, outreach and education for institutional-based people who are unaware of the services and could access them after leaving the institution. She said the waiver covers physical and mental disabilities with a review by a Medicaid nurse.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #4).

**PRESENTATION: Pat Guidry**, Program Manager, Office of Mental Health and Substance Abuse, Division of Medicaid, presented information on mental health services. **Ms. Guidry** provided a historical perspective of mental health (MH) and psychosocial rehabilitation (PSR) services.

She detailed indicators of the need for reform, citing issues with participant treatment eligibility, existing benefits, agency requirements, and utilization management. She said that there is a need for evidence-based practices and treatment standards that match industry standards.

**Ms. Guidry** then discussed the three dimensions that serve as the criteria for defining a person as chronically mentally ill. The amount of PSR cases indicated a problem with the provider network identifying, assessing, communicating the areas of service, and delivering services within their businesses. A new provider agreement was developed and the entire network was re-enrolled with a 3-year credential cycle. She discussed the 2008 reform project and its three phases. She said that phase one was accomplished through rule changes and stake analysis. Phase two was interrupted with the 1% reduction in benefits and development of the Governor's Behavioral Health Transformation Work Group.

In detailing the 1915b Managed Care Waiver, **Ms. Guidry** stated that the emphasis is on psychosocial need versus medical necessity, and it guarantees access to professionals and evidence-based services for quality care.

Responding to questions from the committee, **Ms. Guidry** stated that the assessment process is free from conflict of interest and takes into account all individuals with any degree of impairment. The Department provider model has been tried across the country and indicates that the managed care organization model is preferred since it does an efficient and effective job.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #5).

**ADJOURN:**

There being no further business to come before the Committee, the meeting was adjourned at 5:21 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Representative Janice McGeachin  
Co-Chair

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Tuesday, January 25, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>RS19941C1</b>	Relating to Food Stamp Benefits	Steve Bellomy
<b>16-0305-0904</b>	Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Pending)	Callie King
<b>16-0305-1001</b>	Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD) (Pending)	Alberto Gonzalez
<b>16-0324-1001</b>	Rules Governing The Medically Indigent Program Requests for Eligibility Determination (Pending)	Alberto Gonzalez
<b>16-0504-1001</b>	Rules Governing The Idaho Council on Domestic Violence and Victim Assistance Grant Funding (Pending)	Dr. Karen Neill
<b>16-0506-1001</b>	Rules Governing Criminal History and Background Checks (Pending)	Steve Bellomy
<b>16-0506-1002</b>	Rules Governing Criminal History and Background Checks (Fee)	Steve Bellomy

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, January 25, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:05 p.m and welcomed the participants and guests.

**RS19941C1** **Relating to Food Stamp Benefits: Steve Bellomy**, Bureau Chief of Audits and Investigations, Department of Health and Welfare, presented **RS 19941C1** stating that this bill pertains to the Welfare Fraud Investigation Unit which is part of The Bureau of Audits. He stated that the purpose of the bill is to update the obsolete references in the existing law from "food stamps" which no longer exists, to "Food Stamp Benefits" issued in any form, including through Electronic Benefit Transaction Cards. Modifying the Statute will allow law enforcement to apply criminal penalties for abusing food stamp benefits issued on an Electronic Benefit Transaction Card, or any other future issuance method.

**Mr. Bellomy** requested that the Committee send this RS to print.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 1).

**Senator Bock** asked if the federal government had its own method for dealing with food stamp fraud cases and if it is a federal crime as well as a state crime. **Mr. Bellomy** stated that there are some federal efforts but that the primary investigation occurs at the state level. It is the responsibility of each state to manage the food stamp program. At the federal level they have a retail unit that analyzes and prosecutes retailers for fraudulent acceptance of food stamps. **Senator Bock** followed up by asking for clarification that the states determine who is eligible and therefore are best able to determine how the system should work. **Mr. Bellomy** answered that this was correct. **Senator Nuxoll** asked if this change of wording would help stop those who buy food for their animals. **Mr. Bellomy** stated that only certain food items are eligible but that is it impossible to regulate how food items are used. **Senator Nuxoll** thanked **Mr. Bellomy** and noted that she is aware of a situation where meat purchased with food stamps was fed to animals.

**MOTION** **Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to print **RS 19941C**. The motion carried by **voice vote**.

**Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** to begin the rules review and stated that the Committee would revise the agenda schedule to allow **Mr. Bellomy** to present his rules, first.

**Docket No.  
16-0506-1001**

**Relating to the Rules Governing Criminal History and Background Checks (Pending): Mr. Bellomy** stated that the Department's Criminal History Unit screens applicants who apply for positions working with vulnerable children and adults. In order to clarify the distinction between the Department's program rules and the Department's criminal history and background check (CHC) rules, these CHC rules are being amended to reference only those Department rules that require an individual to have a criminal history and background check. In addition, in section 210.01., paragraph j, the word "voluntary" was struck so the rule would also cover involuntary and vehicular manslaughter. The Department now recognizes that Idaho's manslaughter crime code is too broad in scope to lump into one category. While voluntary manslaughter does not provide sufficient safety, including involuntary and vehicular manslaughter charges goes too far. He advised that the Department will correct this oversight. He noted that the 5-year disqualifying crimes list is also being amended to encompass additional crimes to better protect children and vulnerable adults.

**Mr. Bellomy** suggested two possible ways for the Committee to address this rule today: (1) reject section 210.01, paragraph j, which would revert the rule back to voluntary manslaughter only; or (2) adopt the rule with the promise that the Department will introduce a temporary rule to further define which manslaughter charges result in an unconditional denial and which should only result in a 5-year disqualification.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 2).

**TESTIMONY:**

**Howard Belodoff**, Attorney for Federal Legal Aid, spoke in support of **Docket 16-0506-1001**. He stated that he represented a client who had been in an accident at the age of 17 and plead guilty to involuntary manslaughter. She completed her sentence of two years probation and has had no other issue in 48 years. However, she lost her job of 18 years after the original rule was put into effect, changing the wording from voluntary manslaughter to all manslaughter.

**Susan Altman**, Meridian, Idaho, retired Programs Supervisor of the Criminal History Unit, spoke in support of **Docket 16-0506-1001**. However, she disagrees with modifying the term manslaughter to voluntary manslaughter in section 210.01, paragraph j. She stated that a lot of thought had gone into removing the word voluntary from the rule. The term involuntary manslaughter covers many crimes that **Ms. Altman** feels should be held under the disqualifying crimes section. She stated that any individual has the right to appeal if they do not pass a background check because of this rule.

**Vice Chairman Broadsword** asked for clarification as to whether the rule already exists the way **Ms. Altman** is supporting. **Ms. Altman** stated that yes, it does, and that she would like to see the term manslaughter stay the same, and perhaps add a clause going into further detail about exactly which crimes labeled as involuntary manslaughter are subject to the disqualifying crimes section. **Vice Chairman Broadsword** followed up by asking if **Ms. Altman** is willing to come back and work with the Department of Health and Welfare to make this happen. **Ms. Altman** stated that yes, she is willing to do that.

**Senator Schmidt** asked **Mr. Bellomy** what "negative finding" entailed in section 230.01. **Mr. Bellomy** explained that a negative finding covers physical, verbal, and mental abuse of a client, neglect of a client, mistreatment of a client, misappropriation of a client, or any crime that renders the character of the individual as unusable to provide services.

**MOTION:**

**Senator Bock** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 16-0506-1001** with the exception of section 210.01., j, which is rejected. **Senator Vick** questioned whether the Committee was able to amend a rule, or if they could only accept or reject it. **Vice Chairman Broadsword** stated that the Committee could not amend the rule, but that they could reject a portion of the rule. The motion carried by **voice vote**.

**Docket No.  
16-0506-1002**

**Relating to the Rules Governing Criminal History and Background Checks (Fee):** **Mr. Bellomy** stated that this rule will allow The Criminal History Unit to conduct an Idaho Child Protection Registry Check for other state's foster care and adoptive placements. It will also allow us to charge the other state a \$20 fee for doing the registry check.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 3).

**Senator Vick** asked if we currently provide this information for no fee or if we do not currently provide this information to other states. **Mr. Bellomy** replied that prior to July 1, 2010 this information was provided at no cost. **Senator Vick** followed up by asking if the fee was only charged to out-of-state agencies. **Mr. Bellomy** stated that no fees were charged to in-state agencies.

**MOTION:**

**Chairman Lodge** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0506-1002**. The motion carried by **voice vote**.

**Docket No.  
16-0305-0904**

**Relating to Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD) (Pending):** **Callie King**, Medicaid Eligibility Program Specialist, Department of Health and Welfare, stated the Department is amending the text of the proposed rules and the temporary rule based on federal guidance from the Centers for Medicare and Medicaid Services (CMS). CMS has provided this guidance to implement the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008. The amendments to these rules align the Medicare Saving Program for Qualified Medicare Beneficiary (QMB), the Specified Low-Income Medicare Beneficiary (SLMB), and the Qualifying Individual (QI) for Medicare Part B with the Full Benefit Low-Income Subsidy (LIS) Program resource limits and updates references to the Social Security Act.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 4).

**Senator Bock** asked if these changes were necessary to meet federal requirements. **Ms. King** stated that was correct. **Senator Bock** followed up by inquiring as to what the federal requirements are. **Ms. King** replied that the requirements are that they take the Low-income Subsidy applicants applications with Social Security to be one and the same for an application for the Medicare Savings Program and also that they take the resource limits for the Low-income Subsidy to be the same resources as for the Medicare Savings Program.

**Senator Vick** asked if this is already in the state budget or if it will be new spending compared to what was in last years budget. **Ms. King** replied that it is in the Health and Welfare Budget already. **Senator Nuxoll** asked if the Federal Health Care Act that was adopted last March had any effect on the rules. **Ms. King** answered that it did not effect this specific rule.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider** to adopt **Docket 16-0305-0904**. The motion carried by **voice vote**, with **Senator Vick** voting, "Nay."

**Docket No. 16-0305-1001** **Relating to Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD) (Pending):** **Alberto Gonzales**, Program Manager for Medicaid Eligibility, Division of Welfare, Department of Health and Welfare, presented **Docket No. 16-0305-1001**. This rule will make changes in order to reduce general fund expenditures. The first change is that Idaho will only pay AABD cash to participants that are also receiving Federal Supplemental Security Income or (SSI) payments Also, individuals receiving assistance through the Developmental Disabilities waiver and living in a Certified Family Home (CFH) or Residential Assisted Living Facility (RAFL) will no longer receive a cash payment. These changes are projected to reduce the Department of Health and Welfare general fund expenditures by approximately 1.3 million dollars over the first 12 month period and will provide necessary savings with the projected growth over the next few years. None of the changes will result in a loss of federal matching monies because this benefit is paid 100% through the state general funds.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 5).

**Vice Chairman Broadsword** noted that there had been a temporary rule last session and asked if these changes had been in place for the last year. **Mr. Gonzales** answered that they had become effective July 1st, 2010. **Senator Heider** asked if this was the issue that had been receiving public criticism about the Certified Family Home Program and the lack of funding for that program. **Mr. Gonzales** stated that the budget is having a lot of impacts on both Medicaid and Division of Welfare benefits, but he is not sure if this directly impacts the client. It may impact the provider. **Senator Nuxoll** asked what the rules are that govern the spending of these cash payments. **Mr. Gonzales** replied that the cash payments may be spent on a variety of things, there is really no restriction.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Vick**, to adopt **Docket No. 16-0305-1001**. The motion carried by **voice vote**, with **Senator Bock** voting, "Nay."

**Docket No. 16-0324-1001** **Relating to Rules Governing The Medically Indigent Program Requests for Eligibility Determination (Pending):** **Mr. Gonzales** stated that the Department of Health and Welfare has the responsibility to develop and implement rules for a Medicaid eligibility determination process for applicants applying for financial assistance through the County Medically Indigent Program and Catastrophic Health Care Cost Program. This new chapter of rules provides the requirements necessary for a hospital or county to submit applications and requests to the Department of Health and Welfare to determine Medicaid eligibility for an applicant who may be medically indigent.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 6).

**MOTION:** **Senator Schmidt** moved, seconded by **Chairman Lodge**, to adopt **Docket No. 16-0324-1001**. The motion carried by **voice vote**.

**Docket No.  
16-0504-1001**

**Rules Governing The Idaho Council on Domestic Violence and Victim Assistance Grant Funding (Pending): Dr. Karen Neil**, Chairman of the Committee for Oversight of Domestic Violence Offender Intervention Programs and Standards, (CODVOIPS) subcommittee of the Idaho Council on Domestic Violence and Victim Assistance, presented **Docket No. 16-0504-1001**. The Idaho Council on Domestic Violence is proposing to update the minimum standards document for the Domestic Violence Batterer Treatment Program that is incorporated by reference in this chapter of rules. The minimum standards are being updated to reflect current research on domestic violence treatment, in particular, evidence-based batterer intervention. The proposed changes will benefit individuals and organizations involved in the effective response to domestic violence as well as those receiving treatment, their families, and their communities. The rule changes will support, with best practices, an effective response to domestic violence that promotes safety, accountability of offenders, and a positive family environment. In addition, the standard “required sections” of this chapter of rules are being included and updated to conform to the current requirements of the Office of the Administrative Rules Coordinator.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 7).

**TESTIMONY:**

**Sarah Scott**, Senior Attorney with the Idaho Coalition against Sexual and Domestic Violence, spoke in opposition to **Docket No. 16-0504-1001**. **Ms. Scott** stated that the Idaho Coalition against Sexual and Domestic Violence is specifically opposed to section 004.03., paragraph b. incorporating the Minimum Standards for Domestic Violence Offender Intervention Programs, which allows couple's intervention to be incorporated into the Offender intervention process. **Ms. Scott** believes that a couples intervention type therapy is not designed to address domestic violence and the tactics typically used by those who batter. She stated that mental health clinicians have not received training in domestic violence issues, thus these mental health physicians are not prepared to address these issues appropriately which puts the victim at risk. **Ms. Scott** stated that a victim of domestic violence is not party to the criminal action and, thus, the court has no jurisdiction to order the victim to participate in couple's counseling.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 8).

**Vice Chairman Broadsword** asked if the standards that **Ms. Scott** was objecting to were subject to change anywhere other than in the rules. **Dr. Neil** replied that the Idaho Council on Domestic Violence and Victim Assistance is charged in the state under Idaho Statute Title 18, 18-918, to establish standards in the state for offender intervention and to approve programs that offer treatment. **Vice Chairman Broadsword** asked if **Ms. Scott** had been involved in the rulemaking and whether they had made their concerns known at that time. **Ms. Scott** answered that they had many meetings on this issue and that it was the one point they could not agree on.

**Ladessa Foster**, Licensed Mental Health Councilor, Associate Director at the Idaho Coalition Against Sexual and Domestic Violence, spoke in opposition to section 004 03., paragraph b. of **Docket No. 16-0504-1001**. **Ms. Foster** stated that putting victims that have been abused, intimidated, threatened, coerced, or controlled into a situation like couples counseling would be dangerous. She stated that couples counseling will not fix the batterer and that it MAY be appropriate after the batterer has successfully completed an approved batterer's treatment program, the victim has received help in coping with the trauma of abuse and if both parties volunteer to participate.

**Ms. Foster** also presented a letter from **Tami Kammer**, President of Idaho Association for Marriage and Family Therapy, which stated that the Idaho Association of Marriage and Family Therapy is also in opposition to the section 004.03., paragraph b. of **Docket No. 16-0504-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 9.)

**Kathy Figueredo** spoke in opposition to section 004.03., paragraph b. of **Docket No. 16-0504-1001**. She stated that her daughter had been a victim of domestic abuse and couples counseling did not work to protect her daughter. Her daughter was murdered by her boyfriend who was habitually abusive after participating in couples counseling.

**Lisa Growette Bostaph** spoke in opposition to section 004.03., paragraph b. of **Docket No. 16-0405-1001**. **Ms. Bostaph** stated that couples therapy is not appropriate to treat domestic violence and that most couples therapists are not qualified to handle and treat domestic violence.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 10).

**Holy Koole**, representing Idaho Prosecuting Attorneys Association, spoke in opposition to section 004.03., paragraph b. of **Docket No. 06-0504-1001**. She stated the courts do not legally have jurisdiction over the victim and that incorporating couples therapy into the rule would go against Idaho Code.

**Vice Chairman Broadsword** asked **Dr. Neil** to come back to the stand to answer questions from the Committee. **Vice Chairman Broadsword** asked **Dr. Neil** what would result if this rule or section 004.03., paragraph b. were rejected. **Dr. Neil** replied that they would take the revisions back to the Committee and look at the revisions again. **Vice Chairman Broadsword** followed up by asking if the Committee accepted the rule, would they be willing to go back and look over section 004.03., paragraph b. **Dr. Neil** answered that they had considered input from many sources when revising these standards. She stated that based on the current rule, it would be mandatory for all offenders to have 52 ninety minute sessions of treatment and that if, during this treatment, their qualified care provider felt another kind of treatment would be more productive, they could have the offender receive that treatment instead. **Dr. Neil** noted that this was necessary because one type of treatment does not fit all offenders.

**Vice Chairman Broadsword** asked **Dr. Neil** to address the concern that **Ms. Koole** raised, that it would violate Idaho Code. **Dr. Neil** answered that Idaho Code states that counseling or treatment pursuant to this section shall be conducted according to standards established or approved by the Idaho Council on Domestic Violence. These standards were last revised in 2005, approved by the rules Committee in 2005. She stated that their goal was to revise the standards based on current research. At this point, the former standards state that 52 weeks is the offenders only option. It does not allow or provide for new treatment based on new research. **Vice Chairman Broadsword** then asked **Dr. Neil** if she would address requiring a victim of domestic violence to be forced into counseling. **Dr. Neil** replied that all offenders would first go into a 52 weeks treatment that would not require the victim to be involved. What they plan is for the service providers to be carefully screened and qualified to handle domestic violence counseling to allow an offender to be referred to couples counseling treatment.

**Senator Bock** asked what went into the creation of the minimum standards document for the Domestic Violence Batterer Treatment Program and who created it. **Dr. Neil** replied that originally the standards were developed by a very diverse group of experts in the field. Right now, The Committee for the Oversight of Domestic Violence Intervention Program and Standards includes a prosecutor, a victim witness coordinator from a police department, a PHD prepared nurse specializing in forensics, an advocacy organization former executive director, a policeman of a rural town in Idaho, and **Dr. Neil**, herself. **Senator Bock** asked why they don't go back and revise the standards to fix the section that has all the issues? **Dr. Neil** answered that they had listened to input from treatment providers and had an adequate amount of time for input on the issue. They felt that, given the clause in the standards that states that the offender would enter into a 52 week treatment program, as the previous standards stated that once in treatment the offender would have the opportunity to get another kind of treatment after careful assessment that would be more helpful for the offender. **Senator Bock** followed up by asking if what **Dr. Neil** was saying, was that no they will not go back and look over the standards again. **Dr. Neil** stated that they would revisit the couples therapy portion of the standard if it was recommended that they go back. **Senator Darrington** then asked if these rules had not been in effect. **Dr. Neil** replied that was correct. **Senator Darrington** noted that the rule before them could not have affected the daughter of **Ms. Figueredo** because the rule was not in effect at that time.

**Senator Smyser** asked if there was proof that the practices the new standards would apply are effective. **Dr. Neil** answered that they really need to do more research before they can give a definitive answer. **Senator Heider** noted he felt it would not be appropriate to have the victim and offender together during treatment. **Vice Chairman Broadsword** asked what would happen to the rule if the Committee took out the section that had reference to the standards. **Dr. Neil** answered that they would have to look at it very closely to see what kind of effect it could have, but that they would go back to what the current standards reflect. **Vice Chairman Broadsword** noted that perhaps the Committee should hold the rule for a few days to allow the concerned parties to reach a compromise. **Senator Darrington** asked about the fiscal impact from this rule. **Dr. Neil** answered that there was no fiscal impact.

**MOTION:**

**Senator Darrington** moved, seconded by **Senator Smyser**, to hold the rule in Committee, at the discretion of the Chairman and the Rules Chairman, to be brought back to the Committee at their pleasure. The motion carried by **voice vote**.

**Vice Chairman Broadsword** asked that guests interested in this rule stay around after the meeting to speak with the Committee members. She also introduced Alyssa Horton, assistant secretary, who will be helping the Committee.

**ADJOURNMENT:** There being no further business, **Vice Chairman Broadsword** adjourned the meeting at 4:55 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, January 26, 2011

SUBJECT	DESCRIPTION	PRESENTER
23-0101-1002	Rules Relating to the Idaho Board of Nursing (Temporary)	Sandra Evans
23-0101-1001	Rules Relating to the Idaho Board of Nursing (Pending)	Sandra Evans
19-0101-1001	Rules Relating to the State Board of Dentistry (Pending)	Susan Miller
24-0301-1001	Rules Relating to the State Board of Chiropractic Physicians (Pending)	Roger Hales
24-0601-1001	Rules Relating to the Licensure of Occupational Therapists and Occupational Therapy Assistants (Pending)	Roger Hales
24-0901-1001	Rules Relating to the Board of Examiners of Nursing Home Administrators (Pending)	Roger Hales
24-1301-1001	Rules Relating to the Physical Therapy Licensure Board (Pending)	Roger Hales
24-1301-1002	Rules Relating to the Physical Therapy Licensure Board (Pending)	Roger Hales
24-1401-1001	Rules Relating to the State Board of Social Work Examiners (Pending)	Roger Hales
24-2601-1001	Rules Relating to the Idaho State Board of Midwifery (Pending)	Roger Hales

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, January 26, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, and Schmidt

**ABSENT/ EXCUSED:** Senator Bock

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:12 p.m. **Senator Nuxoll** moved, seconded by **Senator Heider**, to approve the January 12th, 2011 minutes as written. The motion carried by **voice vote**. **Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** to begin the rules review.

**Docket No. 23-0101-1002** **Rules Relating to the Idaho Board of Nursing (Temporary): Sandra Evans**, Executive Director, Idaho Board of Nursing, stated board rules currently require that applicants for certification as a medication assistant pass an examination as a measure of beginning competence. Because of the anticipated very low volume of applicants, it is not financially feasible for vendors to develop an affordable psychometrically sound, legally defensible examination for use in Idaho, which has prevented the Board from issuing certification to otherwise qualified applicants. This rulemaking confers a benefit to applicants and the general public by removing the examination requirement for certification of a medication assistant and allows the Board to issue certification upon determination of competency of the applicant through processes other than by administration of an examination. The rulemaking also authorizes the issuance of a temporary license pending successful completion and receipt of the competency evaluation, when other certification requirements have been satisfied.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Senator Schmidt** asked how many people were certified annually. **Ms. Evans** answered that the number is relatively low.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Nuxoll**, that the Committee adopt **Docket No. 23-0101-1002**. The motion carried by **voice-vote**.

**Docket No. 23-0101-1001** **Rules Relating to the Idaho Board of Nursing (Pending): Ms. Evans** stated a current definition addressing who is allowed to administer medications is too restrictive and inadvertently fails to include certified medication assistants. A rule amendment is necessary to more accurately reflect license renewal procedures. Existing provisions regarding license reinstatement are not located together, have unnecessary redundancies, and contain a grammatical error. There is confusion and lack of clarity over the term "family member" for purposes of prescribing medications and a definition is required. A provision regarding nursing school administrators is misplaced and the Board will no longer be issuing wallet certificates and duplicate licenses so provisions addressing these matters need to be deleted. The proposed amendments will: (1) clarify that persons specifically authorized by Board statute or rule may administer medications; (2) reflect the fact that the Board no longer mails license renewal applications, but only sends

notice of renewal to licensees; (3) add a provision to inform licensees where they can obtain license applications; (4) reorganize provisions regarding license reinstatement in a more convenient, understandable format and accessible location, and eliminate redundancies; (5) define the term "family member" in connection with the prescriptive authority of an advanced practice nurse; (6) move a provision on school administrators to a more appropriate location in rule; and (7) delete outdated references to wallet certificates and duplicate licenses.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 2).

**MOTION:** **Senator Schmidt** moved, seconded by **Chairman Lodge**, to adopt **Docket No. 23-0101-1001**. The motion carried by **voice vote**.

**Docket No.  
19-0101-1001**

**Relating to the State Board of Dentistry (Pending): Susan Miller**, Executive Director, Idaho State Board of Dentistry, stated the pending rules provide for updates to documents which are incorporated by reference into the rules of the Board relative to the use of sedation and general anesthesia by dentists, and codes of ethics of the practice of dentistry and dental hygiene. New documents incorporated by reference include standards for clinical dental hygiene practice and standards for dental patient records. The text of the pending rule (19.01.01.060.03.a) has been amended to add reference to an incorporated document in Section 19.01.01.004.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 3).

**Vice Chairman Broadsword** asked **Ms. Miller** if by accepting these standards the Committee would be requesting higher standards for dental hygienists or were these standards already in place. **Ms. Miller** answered that these standards are generally accepted, but The Board has nothing in the rules to fall back on. **Vice Chairman Broadsword** followed up by asking how dental hygienists in the State of Idaho will know these standards are in place if this rule is adopted. **Ms. Miller** replied that the Board of Dentistry publishes a newsletter twice a year where they will put this information, as well as making it available on-line. **Senator Schmidt** asked if there were fees or fee changes included in this rule? **Ms. Miller** answered that there were no fees or changes to fees, known to her, in this rule.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, to adopt **Docket No. 19-0101-1001**. The motion carried by **voice-vote**.

**Docket No.  
24-0301-1001**

**Rules Relating to the State Board of Chiropractic Physicians (Pending): Roger Hales**, private practice lawyer representing the Bureau of Occupational Licenses and the Professional Licensure Boards and Services, stated the Board of Chiropractic Physicians would like to establish a code of ethics that will further protect the public. Changes from the published proposed rule are necessary due to comments received and considered by the Board.

**Vice Chairman Broadsword** asked if the "cooling off" period involved in the sexual misconduct standard is typical throughout the industry. **Mr. Hales** answered that yes, it is.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Vick**, to adopt **Docket No. 24-0301-1001**. The motion carried by **voice-vote**.

**Docket No.  
24-0601-1001**

**Rules Relating to the Licensure of Occupational Therapists and Occupational Therapy Assistants (Pending):** **Mr. Hales** stated the Board of Occupational Therapists and Occupational Therapy Assistants in this set of rules is updating previous rules under the Board of Medicine to clarify the inactive status and the requirements to reinstate. Further, the Board adopted a rule that has caused concern to licensees and providers and limited service to the public. In an effort to address this concern while still protecting the public and ensuring their health, safety, and welfare, the Board is clarifying the level of supervision for students, graduates, and assistants. It also clarifies the supervision needed for certain treatment modalities.

**Senator Smyser** asked if there have been concerns about individuals lacking appropriate supervision. **Mr. Hales** answered that there weren't typically concerns about the lack of supervision. **Vice Chairman Broadsword** asked how soon after the rules were passed last year, was the temporary rule made to fix the problem and should the Bureau have done more deliberating before presenting the rule last year. **Mr. Hales** replied that the rule became effective on July 28, 2010 and that there was discussion going on shortly after the session ended. **Vice Chairman Broadsword** asked if they lost any occupational therapist during the 3 to 4 month period before the temporary rule was enacted when they could not work. **Mr. Hales** replied that although he could not tell exactly what happened during that period, general license numbers are at 498 occupational therapists, 123 occupational therapist assistants, and 7 licenses that are inactive. There are 116 individuals who may still renew their license. **Vice Chairman Broadsword** asked if the Board of Occupational Therapists was operating evenly in regards to money. **Mr. Hales** replied that the Board of Occupational Therapists ended the fiscal year 2010 \$14,000 dollars in the black.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Smyser**, to adopt **Docket No. 24-0601-1001**. The motion carried by **voice-vote**.

**Docket No.  
24-0901-1001**

**Rules Relating to the Board of Examiners of Nursing Home Administrators (Pending):** **Mr. Hales** stated the Board of Examiners of Nursing Home Administrators would like verification that an applicant obtained supervised experience in all six domains and that the preceptor training be in addition to full time work. The rule clarifies that full time shall be at least thirty-two hours per week which would allow at least eight hours per week for direct training between the preceptor and trainee. It also requires that the preceptor be recertified every ten years.

**Senator Vick** asked how long Nursing Home Administrators have been licensed. **Mr. Hales** answered that he wasn't sure of the exact date but they have been licensed at least since 1993.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Heider**, to adopt **Docket No. 24-0901-1001**. The motion carried by **voice-vote**.

**Docket No.  
24-1301-1001**

**Rules Relating to the Physical Therapy Licensure Board (Pending):** **Mr. Hales** stated the 2010 legislature passed House Bill 470 which amended Section 54-2212, Idaho Code, to require that foreign educated physical therapists pass an English proficiency examination to qualify for a license if English is not the applicant's native language. This rule identifies the standardized examinations.

**Senator Darrington** asked if the national test handled any reciprocity problems. **Mr. Hales** responded yes.

**MOTION:** **Senator Darrington** moved, seconded by **Chairman Lodge**, to adopt **Docket No. 24-1301-1001**. The motion carried by **voice-vote**.

**Docket No.  
24-1301-1002**

**Rules Relating to the Physical Therapy Licensure Board(Pending): Mr. Hales** stated the Physical Therapy Board is updating its rules to correct the name of the U.S. Department of Education and to allow a successor entity. The Board is also adding a section to allow for termination of applications that have lacked activity for one year upon notification to the applicant. This will help reduce the number of files that need to be maintained. Finally, the Board would like to allow four hours continuing education credit for the supervision of physical therapist students or physical therapist assistant students as this supervision is an important part of the training of future licensees.

**Vice Chairman Broadsword** asked if a person allowed their license to lapse and wanted to renew after 2 years would they have that opportunity. **Mr. Hales** answered that this really only applies to new applicants. Once you have received your license the law states how long you have to renew, typically 5 years. **Senator Schmidt** asked if applications were terminated after 30 days with written notice if unable to be contacted. **Mr. Hales** answered that part of the application process is to provide your address so you may receive notice. However, it is very rare for an applicant to not be contacted within 30 days.

**MOTION:**

**Chairman Lodge** moved, seconded by **Senator Vick**, to adopt **Docket No. 24-1301-1002**. The motion carried by **voice-vote**.

**Docket No.  
24-1404-1001**

**Rules Relating to the State Board of Social Work Examiners (Pending): Mr. Hales** stated the Board of Social Work Examiners is removing rules given passage of House Bill 537 which eliminated licensure based upon education in a related field. The Board is also clarifying the type of supervised experience required for licensure at the clinical level. This clarification is needed to ensure that clinical level social workers have adequate experience in treatment.

**Senator Vick** asked if these rules allowed for grandfathering of people with old licenses who cannot meet the requirements for the new license. **Mr. Hales** answered that the new rules will go into effect when the concurrent resolution is signed, so any current applicants after that are subject to the new requirements. **Senator Vick** followed up by asking whether this rule would affect anyone who is already fully licensed. **Mr. Hales** replied that it will not affect anyone with a clinical license. If you have a masters level license and are obtaining experience to reach a clinical level license, it may have some effect on you. **Senator Vick** questioned if it was possible to have a degree in something other than social work, be close to becoming a social worker and because of this new rule, not have that opportunity. **Mr. Hales** answered that the related field scenario went away last year.

**TESTIMONY:**

**Robert Payne**, resident of Hailey, Idaho, Board of Social Worker Examiners, spoke in support of **Docket No. 24-1404-1001**

**MOTION:**

**Senator Heider** moved, seconded by **Senator Smyser**, to adopt **Docket No. 24-1404-1001**. The motion carried by **voice-vote**.

**Docket No.  
24-2601-1001**

**Rules Relating to the Idaho State Board of Midwifery (Pending): Mr Hales** stated that the 2009 legislature passed House Bill 185 which created the State Board of Midwifery. In order to protect the public this change allows the board to establish and consider standards of conduct for licensure, renewal and reinstatement that includes: discipline against the applicant or individual's license in this or another state; or consideration of a felony conviction or any lesser crime that reflects adversely on the person's fitness to be a license midwife.

**Senator Nuxoll** asked if the Idaho State Board of Midwifery was created by a statute sponsored by the midwives. **Mr. Hales** replied that he believes it was a local association of midwives. **Senator Nuxoll** followed up by asking if the midwives want this rule approved. **Mr. Hales** answered that the Board wants this to pass, but there would probably be no opposition from the midwives. **Senator Nuxoll** asked if the midwives were informed of this rule. **Mr. Hales** answered yes they were. **Senator Heider** referred to 450.01., paragraph g. where it mentions being convicted of a felony or lesser crime is considered misconduct and asked if the term conviction applied to the lesser crimes as well as the felonies. **Mr. Hales** answered that yes, conviction applied to the lesser crimes and felonies. The Board only rules on convictions, not just an arrest. **Vice Chairman Broadsword** asked if there was an event that precipitated these changes to the rules. **Mr. Hales** answered that these changes are standard upkeep and they make sense in regards to other states standard grounds.

**MOTION:**

**Chairman Lodge** moved, seconded by **Senator Heider**, to adopt **Docket No. 24-2601-1001**. The motion carried by **voice vote**.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** to end the meeting. **Chairman Lodge** reminded everyone that tomorrow the Committee would have rules from DEQ as well as the State Board of Pharmacy and that next week the Committee would have a rule from Southwest District Health on February 2nd and then they would have to go back to the Family and Children Community Services and the Medicaid rules. She noted that they should be finished next week with the rules. **Chairman Lodge** then reminded everyone that the JFAC public hearing is tomorrow and that it starts at 8:00 a.m. She mentioned that she would have to leave some of the meetings early because she is serving on a special committee.

**Vice Chairman Broadsword** asked Bureau Chief, **Tana Cory**, from the Bureau of Occupational Licenses, to introduce herself for the benefit of the new Committee members. **Ms. Cory** introduced herself, spoke shortly about the Bureau, and stated that it was an honor to serve. **Chairman Lodge** thanked **Ms. Cory** for her help.

**ADJOURN**

There being no further business to come before the committee, **Chairman Lodge** adjourned the meeting at 4:19 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Thursday, January 27, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>27-0101-1001</b>	Relating to Rules of the State Board of Pharmacy (Pending)	Mark Johnston
<b>27-0101-1002</b>	Relating to Rules of the State Board of Pharmacy (Pending)	Mark Johnston
<b>27-0101-1003</b>	Relating to Rules of the State Board of Pharmacy (Pending)	Mark Johnston
<b>27-0101-1004</b>	Relating to Rules of the State Board of Pharmacy (Pending)	Mark Johnston
<b>58-0101-0904</b>	Relating to Rules for the Control of Ai Pollution in Idaho (Pending)	Martin Bauer
<b>58-0101-1002</b>	Relating to Rules for the Control of Air Pollution in Idaho (Pending)	Martin Bauer
<b>58-0105-1001</b>	Relating to Rules for Standards for Hazardous Waste (Pending)	Orville Green
<b>58-0108-1001</b>	Relating to Rules for Public Drinking Water Systems (Pending)	Barry Burnell
<b>58-0120-0901</b>	Relating to Rules for Administration of Drinking Water Loan Program	Barry Burnell

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, January 27, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:07 p.m., welcomed everyone, and passed the gavel to **Vice Chairman Broadsword** to start the rules review.

**Docket No. 27-0101-1001** **Relating to Rules of the State Board of Pharmacy (Pending): Mark Johnston**, Executive Director of the Board of Pharmacy, stated the proposed rule changes are necessary to allow the electronic prescribing of controlled substances, in conjunction with June 1, 2010 Drug Enforcement Administration (DEA) changes allowing the electronic prescribing of controlled substances. The proposed rules eliminate requirements for handwritten signatures; prescriptions written in ink, indelible pencil, or typewriter; documentation allowed only on paper, hard copy prescriptions; the need for a prescription hard copy; and certain prescriptions that must be promptly reduced to writing. Electronic prescribing and electronic prescription drug order records for controlled substances will be allowed in accordance with federal law, as per this proposed rule. The term "emergency" has also been defined, as required by Section 37.-2722., (b) Idaho Code. Additional updates include prescription drug order and prescription labeling minimum requirements, as well as listing additional circumstances when a controlled substance inventory is to be taken.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Senator Darrington** asked how E-prescription will allow us to meet the requirements of having triplicates. **Mr. Johnston** answered that the triplicate requirements are no longer necessary. **Chairman Lodge** asked with the alternative filing system, mentioned in the rule, will pharmacies still keep a paper filing system. **Mr. Johnston** replied that electronic prescribing is not mandatory and although there are incentives offered when moving to electronic prescribing, it is still necessary to have an alternative filing system for some pharmacies. **Vice Chairman Broadsword** asked if it was part of the electronic medical records requirements to give an incentive for E-prescribing. **Mr. Johnston** answered yes that was correct. **Senator Bock** asked what control is on the prescribers end when it comes to preventing fraudulent prescriptions. **Mr. Johnston** replied that there is a two token entry device that is used for writing prescriptions so that only an individual with a card and password may access and use the device. However, there is a larger responsibility on the physicians. **Senator Bock** followed up by asking if it was the physician that must order the prescription through this device. **Mr. Johnston** answered that yes, the physician must do this on a hand-held device or desktop computer. **Vice Chairman Broadsword** asked if pharmacists were willing to take on that extra burden of double checking the prescriptions as they

come in, in case the doctor pushed the wrong button on the device. **Mr. Johnston** answered that yes, that was part of the pharmacist's job.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Smyser**, to adopt **Docket No. 27-0101-1001**. The motion carried by **voice-vote**.

**Docket No. 27-0101-1002** **Relating to Rules of the State Board of Pharmacy (Pending):** **Mr. Johnston** stated training and record keeping requirements for pharmacists administering immunizations are needed to protect the health and welfare of the citizens of Idaho. The proposed rule would establish qualifications for pharmacists to immunize and establish record keeping requirements.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 2).

**Vice Chairman Broadsword** asked if the need for this docket was brought about because there are more pharmacists giving immunizations. **Mr. Johnston** answered yes, that is correct. Another issue is that there are some accounts of being immunized incorrectly due to a lack of education.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 27-0101-1002**. The motion carried by **voice-vote**.

**Docket No. 27-0101-1003** **Relating to Rules of the State Board of Pharmacy (Pending):** **Mr. Johnston** stated rule 358 (IDAPA 27.01.01.358) needs to be stricken because it is in conflict with the Idaho Wholesale Drug Distribution Act, Sections 54-1752(16) and 54-1753, Idaho Code. The proposed change strikes Rule 358 in its entirety because it is in conflict with the Idaho Wholesale Drug Distribution Act.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 3).

**Senator Nuxoll** asked what the reason is for adopting this rule. **Mr. Johnston** answered that there is no statutory authority for the rule to exist, it is not in effect, and they want to strike the rule so that it will not cause confusion.

**MOTION:** **Chairman Lodge** moved, seconded by **Senator Heider**, to adopt **Docket No. 27-0101-1003**. The motion carried by **voice vote**.

**Docket No. 27-0101-1004** **Relating to Rules of the State Board of Pharmacy (Pending):** **Mr. Johnston** stated the proposed rule is necessary to include information on controlled substances delivered by practitioners in the controlled substances prescriptions database maintained by the Board pursuant to Sections 37-2726 and 37-2730(A), Idaho Code. This information is not currently captured in the database and should be included in order to protect the health and welfare of the citizens of Idaho. The proposed rule would mandate that prescribers who deliver controlled substances to ultimate users would have to report certain data to the Board, just as dispensing pharmacies are required to do currently.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 4).

**Senator Schmidt** asked if dispensing physicians needed a DEA pharmacy registration. **Mr. Johnston** replied that in order to house or prescribe controlled substances, a physicians needs to have a DEA number, this number also covers dispensing of controlled substances.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Vick**, to adopt **Docket No. 27-0101-1004**. The motion carried by **voice-vote**.

**Docket No.  
58-0101-0904**

**Relating to Rules for the Control of Air Pollution in Idaho (Pending): Martin Bauer**, Air Quality Administrator, Idaho Department of Environmental Quality, stated the Department of Environmental Quality (DEQ) has initiated this rulemaking in response to a Petition for Initiation of Rulemaking filed by Idaho Conservation League (ICL) and P4 Production, LLC (P4). In the petition, ICL and P4 requested that the Board of Environmental Quality direct DEQ to initiate negotiated rulemaking to solicit public comment and involvement in developing air quality rules designed to limit and control mercury emissions from certain facilities. The petition was granted by the Board on July 29, 2009. By August 11, 2010, a “white paper” providing assistance in understanding and achieving compliance with the requirements of these rules is available for review.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 5).

**Chairman Lodge** asked if there had been problems or questions about this rule in the House. **Mr. Bauer** answered that there were no problems. However, he had not included history of the rule in the House presentation and there were many questions related to history. He stated he had revised his presentation for the Senate Committee by including the history.

**TESTIMONY:**

**Ali Nelson**, Counsel for P4 Productions, LLC., spoke in support of **Docket No. 58-0101-0904**. P4 Productions believes the pending rule meets the objectives of the petition of the rule that was made in July 2009, by the Idaho Conservation League and P4 Productions.

**MOTION:**

**Senator Schmidt** moved, seconded by **Senator Heider**, to approve **Docket No. 58-0101-0904**. The motion carried by **voice-vote**.

**Docket No.  
58-0101-1002**

**Relating to Rules for the Control of Air Pollution in Idaho (Pending): Mr. Bauer** stated this rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho are consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference at Sections 008 and 107 to include those revised as of July 1, 2010. In addition, this proposed rule revises Section 577, Ambient Air Quality Standards, and Section 581, Prevention of Significant Deterioration Increments, by deleting rule text that has become obsolete or unnecessary due to the update of federal regulations incorporated by reference in Section 107.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 6).

**Senator Nuxoll** asked what has changed because of the federal regulations. **Mr. Bauer** answered that mostly, dates have changed in the rule in order to update them. **Senator Nuxoll** asked if there are a lot of changes to the rule. **Mr. Bauer** responded that there are several changes including incorporating federal standards into Idaho rules and guidelines. **Senator Nuxoll** asked **Mr. Bauer** his opinion on the new federal regulations and how they affected businesses. He stated that it really depends on the rule, but by Idaho incorporating the federal regulations into their own rules, it will allow the businesses to work with the Department to make sure they can comply, rather than being forced to deal with the Federal Bureau.

**MOTION:**

**Senator Heider** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 58-0101-1002**. The motion carried by **voice-vote**.

**Docket No.  
58-0105-1001**

**Relating to Rules for Standards for Hazardous Waste (Pending): Orville Green**, Waste Management and Remediation Division Administrator, Department of Environmental Quality, stated Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates the federal regulations incorporated by reference to include those revised as of July 1, 2010. In addition, this proposed rule revises Section 005, Identification and Listing of Hazardous Waste, and deletes Section 014, Interim Status Surface Impoundments. The Section 005 revisions are necessary due to corrections made to the federal regulations under the Hazardous Waste Technical Corrections and Clarification Rule. Section 014 has been deleted because the permitting requirements have been included in Sections 008 and 009 and the state of Idaho does not have interim status surface impoundments that receive hazardous waste.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 7).

**Senator Heider** asked if the State of Idaho monitored only landfill areas or other areas of the State and if all landfills have a monitoring device. **Mr. Green** replied that there is only one commercial landfill that is regulated by the hazardous waste laws and it is visited for inspecting and monitoring monthly. **Vice Chairman Broadsword** asked how mining waste is managed. **Mr. Green** answered that usually mining operations are exempt from hazardous waste regulations. They are generally low toxic but high volume. Water Quality governs those operations. **Senator Schmidt** asked if rules had changed concerning the transport of hazardous waste. **Mr. Green** answered that the trans-boundary shipment of hazardous waste is not included in Rules for Standards for Hazardous Waste.

**MOTION:**

**Senator Heider** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 58-0105-1001**. The motion carried by **voice vote**.

**Docket No.  
58-0108-1001**

**Relating to Rules for Public Drinking Water Systems (Pending): Barry Burnell**, Water Quality Division Administrator, Department of Environmental Quality, stated the proposed rule clarifies definitions and facility design standards, reorganizes certain sections such as the filtration and disinfection process, and updates citations to documents incorporated by reference. In addition, the review of plans and specifications section has been revised for consistency with 2010 House Bill 451 (codified at Section 39-103(12), Idaho Code) and the current rule definition of "public drinking water system." This rulemaking also includes corrections that are typographical and nonsubstantive in nature.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 8).

**Chairman Lodge** asked for clarification on well lots and the distance you must park away from them. **Mr. Burnell** answered that a well lot is defined as a 50 foot radius that surrounds a well. You may not park anywhere on a well lot. **Chairman Lodge** followed up by asking if this was only for community wells and not private wells. **Mr. Burnell** answered yes, that is correct and that these rules only apply to public water systems. **Senator Nuxoll** asked why a single family residence is mentioned in the rule. **Mr. Burnell** responded that every single family residence is considered a connection and 15 connections are needed to make a private water system a public water system. **Senator Darrington** asked if there are a lot of small water systems in the State of Idaho. **Mr. Burnell** responded that yes, there are and that the change from 10 to 15 connections needed to make a public water system helped reduce some issues the Department had. **Chairman Lodge** asked where an individual with a private well would take their water to get it sampled and

what it should be tested for. **Mr. Burnell** responded that private wells should be sampled annually for bacteria and nitrates and that samples can be sent to any commercial laboratory or the State lab. **Chairman Lodge** asked what you would do if your water contained nitrates. **Mr. Burnell** answered that there is a standard for how much nitrate can be present in your water before it becomes unhealthy. After that, there are a few ways to treat your water, including filtration. **Vice Chairman Broadsword** referred to 552.01.b. paragraph ii, where it mentions a water system needing to provide public notice when the pressure falls below 20 psi. She asked if that was because it isn't producing enough pressure to keep water flowing and prevent contaminants from accumulating. **Mr. Burnell** replied that 20 psi is the standard they use to make sure there is always adequate water supply present and to prevent contaminants from getting into the water.

**MOTION:** **Senator Vick** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 58-0108-1001**. The motion carried by **voice-vote**.

**Docket No.**  
**58-0120-0901**

**Relating to Rules for Administration of Drinking Water Loan Program (Pending Fee):** **Mr. Burnell** provided a powerpoint presentation including charts graphing Federal Capitalization Grants used for Administration of DWSRF and Growth in the DWSRF Fund from 2000 to 2009 (See Attachment 9). **Mr. Burnell** stated the purpose of this rulemaking is to revise the Rules for Administration of Drinking Water Loan Program to allow DEQ to collect a fee in the form of a percentage of each loan. The fees collected will be used to provide funds for supporting planning efforts and for loan program administration. The actual interest rate charged on Drinking Water State Revolving Fund (DWSRF) loans will be reduced by the amount of the fee charged so that there is no cost to the communities using the DWSRF loans. The fee revenues can then be used to fund planning grants (as currently allowed for in the Rules for Administration of Planning Grants for Public Drinking Water Facilities, IDAPA 58.01.22). The proposed revisions are consistent with the loan fee structure set out in Section 032 of the Rules for Administration of Water Pollution Control Loans, IDAPA 58.01.12.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 9).

**Vice Chairman Broadsword** asked if the \$20,000,000 increase in the Fund from 2008-2009, was from the stimulus fund. **Mr. Burnell** answered that it was from two sources between 2008 and 2009, federal stimulus funds and a routine drinking water capitalization grant. **Vice Chairman Broadsword** asked if the Committee could get an update on how repayments are coming in and how money is used. **Mr. Burnell** outlined the department procedure for ranking projects, indicating that each year there are approximately 10 to 15 applicants. He stated he would provide the Committee with a list of fund balances. **Senator Darrington** asked if this fund used to be called the water pollution control account. **Mr. Burnell** responded that the water pollution control account is used for the 20 percent match to obtain federal grant money. He stated there have been changes in how the funds are administered over the years. **Senator Darrington** noted that the advantage is that the fund is insulated against use by JFAC for other funding needs. **Senator Vick** asked how it helps if you charge a fee instead of interest, yet come up with the same amount of money. **Mr. Burnell** answered that if they don't charge a fee and just provide loans with interest rates then it restricts the usage of that money. By charging a fee the federal government allows the fee to be used in different ways, or with different programs. **Senator Vick** noted that this made sense and asked for clarification if this would provide a little less money for loans. **Mr. Burnell** replied that was correct.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Vick**, to adopt **Docket No. 58-0120-0901**. The motion carried by **voice-vote**.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge** to end the rules review for this meeting. **Chairman Lodge** introduced **Toni Hardesty** Director of the Department of Environmental Quality. **Ms. Hardesty** stated that she looked forward to working with the Committee. **Chairman Lodge** also introduced **Dr. Joan Cloonan**, A member of the Board of Environmental Quality. **Dr. Cloonan** stated that she has worked with **Senator Darrington** since 1982, and looks forward to working with the Committee. **Chairman Lodge** reminded the Committee members about what the seating arrangements would be during the joint public hearing with JFAC in the morning and that they should be there early.

**ADJOURNMENT:** **Chairman Lodge** reminded the Committee members of the JFAC hearing scheduled for 8:00 a.m., January 28, and with no further business to come before the Committee, adjourned the meeting at 4:26 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Monday, January 31, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>16-0310-1002</b>	Rules Relating to Medicaid Enhanced Plan Benefits (Pending)	David Simnitt
<b>16-0313-1002</b>	Rules Relating to Consumer Directed Services (Pending)	David Simnitt
<b>16-0310-0902</b>	Rules Relating to Medicaid Enhanced Plan Benefits (Temporary)	Paul Leary
<b>16-0321-1001</b>	Rules Relating to Developmental Disabilities Agencies (Pending)	Eric Brown
<b>16-0411-1001</b>	Rules Relating to Developmental Disabilities Agencies - Chapter Repeal (Pending)	Eric Brown

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, January 31, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed guests. She passed the gavel to **Vice Chairman Broadsword** to start rules review. **Vice Chairman Broadsword** noted that there would be a change to the scheduled agenda to allow **Paul Leary**, Deputy Administrator, Idaho Division of Medicaid, Department of Health and Welfare (DHW), to present **Docket No. 16-0310-0902** first.

**Docket No. 16-0310-0902** **Rules Relating to Medicaid Enhanced Plan Benefits (Temporary):** **Mr. Leary** stated that the rule change in this docket is in response to the Governor's Executive Order directing state agencies to hold back one percent of their general fund budget in fiscal year 2009. These rules were extended as temporary rules by the 2009 and 2010 Legislatures and relate to the reduction in maximum amount of service hours for Medicaid covered Developmental Disability services. The economic environment that precipitated the need for this service limitation has not changed and DHW continues to monitor the impact of this service reduction to prevent adverse outcomes. **Mr. Leary** advised this rule only continues current practice and service limitations, it does not result in any change. **Mr. Leary** requested that the Committee extend the temporary rules in **Docket 16-0310-0902**.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 1).

**Senator Schmidt** asked if the Fiscal impact statement in the rule applies to fiscal year 2010. **Mr. Leary** responded that this rule was implemented as a temporary rule in 2009. The fiscal impact to this rule has been included in the DHW budget.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, to approve **Docket No. 16-0310-0902**. The motion carried by **voice-vote**.

**Docket No. 16-0310-1002** **Rules Relating to Medicaid Enhanced Plan Benefits (Pending):** **David Simnitt**, Project Manager, Division of Medicaid, stated in 2008, the Department began meeting with stakeholder groups to redesign developmental disabilities (DD) benefits for children. This project is known as the "Children's System Redesign." The Department will start a phased implementation of these redesigned benefits starting July 1, 2011. The major restructuring for the Children's System Redesign provides the following: definitions, requirements for children's DD programs, including the new services and provider qualifications. In order to phase in these new benefits as seamlessly as possible, the Department will continue to operate the current children's DD benefits concurrently with the redesigned children's DD benefits. To accomplish this, the current requirements for developmental therapy, Intensive Behavioral Intervention (IBI), and other Developmental Disabilities

Agencies (DDA) services are being moved from IDAPA 16.04.11, to IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," in Sections 649 through 659 of this docket. The Department has made many amendments throughout the proposed rule, based on the extensive public input received during the 21-day public comment period. As a result of recent comments the Department is recommending that Subsection 663.02, paragraph a, be removed. Removing this restriction will allow children to not only receive habilitative supports in their communities but also in their family homes and at developmental disability centers when doing so will help facilitate the child's independence and integration into the community. **Mr. Simnitt** requested that the Committee approve **Docket 16-0310-1002** with the exception of Subsection 663.02, paragraph a.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 2).

**Senator Smyser** asked how the rule would be different with the exception that was mentioned. **Mr. Simnitt** answered that in the rule it says debilitated support can only be delivered in the community which excludes places like the child's home and school. With the exception, those places can be included.

**TESTIMONY:**

**Paul Johnson**, Co-owner of Unbefuddled LLC., which serves 500 special needs children, spoke **in opposition to Docket No. 16-0310-1002**. He stated that he believes the children redesign is a good outline, but there is still much work to be done before it is approved. **Mr. Johnson** suggests the Department keep as many services as possible privatized and competitive, retain co-coordination, and take time to be very purposeful in changes that are made.

**Vice Chairman Broadsword** asked if **Mr. Johnson** participated in any part of the negotiated rulemaking with the Department. He replied that he had participated in the two meetings he was aware of.

**Cori Dalton**, mother of a son diagnosed with autism, spoke **in opposition to Docket No. 16-0310-1002**. She stated that the childrens redesign has some good aspects, including the choices offered for families. However, **Ms. Dalton** believes that there needs to be more ground between habilitative supports and habilitative intervention, and she is concerned about the slashing of hours in services the children will receive. Her son will go from 22 hours a week to 5 hours a week.

**Senator Heider** asked if **Ms. Dalton's** son would be going from 22 hours of service to 5 hours a week specifically because of this redesign program. **Ms. Dalton** replied yes. Because of the progress made over the last year and a half he will be placed in the tier of habilitative support. **Senator Heider** asked for clarification on when the hours went from 30 a week to 22 a week. **Ms. Dalton** replied that was about two years ago. With the new program, you will be given a budget to pick the services you need or want.

**Mary Rumple**, mother of a son diagnosed with autism, spoke **in opposition of Docket No. 16-0310-1002**. **Ms. Rumple** stated, based on what she was told, that she believed with the new budget system, her budget would remain close to the same as it was before and only the services would change. However, the budgets were created by taking an average of current use and giving every family in each category of need the same budget. She also stated that although there are many new services available, there is only one therapy, habilitative intervention. In the current system, there are two therapies available. **Ms. Rumple** stated she believes a children's developmental disabilities program redesign is a wonderful idea, that she and her husband fully support a redesign, but that this is not the program they would do it under.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 3).

**Senator Nuxoll** asked how many hours of therapy **Ms. Rumple's** son received under the old program and what it would be reduced to now. She replied that he had received 22 total hours and he would now get 6 hours a week. **Senator Nuxoll** asked in what ways she felt the new program would involve the family more. **Ms. Rumple** answered that she does not feel the new program will involve the family more. Many families are unclear as to what the intentions of the rule are, which is one cause for concern. She feels the Department needs to slow down and answer more of the public's questions.

**Vice Chairman Broadword** asked **Mr. Simnitt** to return to the stand and address some of the issues that were raised. **Senator Smyser** asked if 20 hours of services would cost \$50,000. **Mr. Simnitt** answered the Department looked at what they overall spent, what they anticipated they would spend in childrens developmental disabilities services in the upcoming fiscal year, if they made no changes, and looked at those results in order to keep this program budget neutral. Combining these results with research done on what benefit package would be most useful for children in different levels, the Department came up with this program. **Vice Chairman Broadword** asked for clarification on whether each benefit would depend on the needs of each child and if a child who needed extra hours of services would be able to get them. **Mr. Simnitt** replied that the Department has established tiers to decide what services a group of children receive, based on research about the needs of the children and what services would best treat those needs. The children get a set amount of hours and their families and care givers get an opportunity to be involved in selecting which programs the children will be a part of within their budget limits.

**Leslie Clement**, Administrator, Division of Medicaid, Department of Health and Welfare, was called upon to answer questions about the possible reduction in hours some children could receive. **Ms. Clement** stated that there had been some misunderstanding about the proposed budgets including physical therapy, occupational therapy, and speech therapy. The budgets are built around developmental therapy and IBI therapy. A family will have access to services outside of the services offered in their budgets. There will be children who get less services than they do with the current program, but the Department is basing this on the child's needs and not every child needs the maximum amount of hours available. **Senator Bock** asked if there are any children who will receive the full 22 hours or more and which tier that would be. **Ms. Clement** answered yes, the children in the act early waiver will receive a lot of intense services. However, that intensity does not continue as the children age and meet milestones. **Senator Nuxoll** asked why the Department is changing this program. **Ms. Clement** answered that the change of this program was initiated by the prompting of the public for improvement.

**TESTIMONY:**

**Marilyn Sword**, Executive Director, Idaho Council on Developmental Disabilities, spoke **in opposition to Docket No. 16-0310-1002**. She stated the Council is supportive of the concept to redesign but feels there are some major issues that need to be considered before this program moves forward including, how children without a waiver could get access to skill building and crisis services, will the Department have enough qualified trained providers for the new services, and how the budget funds will meet each individual child's need. **Ms. Sword** suggested using a program more similar to the one used for adult developmental disability services.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 4).

**Katherine Hansen**, President of the Idaho Association of Developmental Disability Agencies (IADDA), spoke **in support** of **Docket No. 16-0310-1002**. She stated that the IADDA represents 42 agencies in the State of Idaho which provide developmental therapy or IBI therapy to children. **Ms. Hansen** stated that the Department has worked well with the public and has done a good job. **Ms. Hansen** suggests the Department set an implementation date that assures all the Operational Processes have been carefully developed and communicated with the families, advocates, providers, and Departments staff and contractors.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 5).

**Senator Heider** asked if it would be immature to implement this rule when there are so many questions. **Ms. Hansen** replied that there are many components of the redesign that are a good fit, but perhaps the Department could step back and look at the individual budget design. She stated that the Department will need to be able to answer all the questions by July 1st or delay this rule. **Senator Bock** stated that the rule could not just be changed once implemented and asked if it would be better to wait until next year, after some issues are worked out. **Ms Hansen** answered that delaying implementation to work through all the issues would be the best idea, but that it may not be feasible for the Department.

**Theresa Ball**, mother of a disabled son whose available hours would go from 22 to 6, spoke **in opposition** to **Docket No. 16-0310-1002**. She stated that the variety of services offered with the redesign is attractive, but with the individual budgets, children will not have access to all the services they need. **Ms. Ball** also stated that some older children have a need for intensive behavior intervention as much as younger children.

**James Baugh**, Executive Director, Disability Rights of Idaho, spoke **in opposition** to **Docket No. 16-0310-1002**. He stated that he participated in every step of the redesign and thanked the Department for letting the public be involved in the process. **Mr. Baugh** feels that the budget methodology needs more work.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 6).

**Nicole Sherwood**, Developmental Disability Provider, Developmental Concepts, Inc., provided written testimony of her **support** on **Docket No. 16-0310-1002**.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 7).

**Vice Chairman Broadsword** asked **Mr. Simnitt** to return to the stand to address the issues and questions that were brought up during testimony. **Mr. Simnitt** stated the Department has worked long and hard on this proposal and that he believes they are in a good place to move forward. He feels that the adult budget methodology has a lot of issues and would not be a better fit than the current proposed budget idea. **Vice Chairman Broadsword** asked if **Mr. Simnitt** felt this was a work in progress and if the Department was willing to continue to work on the redesign. He replied that it is a work in progress, but that they are ready to move to the next stage. He doesn't believe if they worked on it another year that they would be in a different place. The Department is committed to continue to work with the stakeholders during implementation. **Senator Heider** asked if the Department was given more time, could they come up with a better solution. **Mr. Simnitt** answered no, he believes they are ready to go forward. **Senator Nuxoll** commented that after listening to all the testimony, she would have a difficult time adopting a rule without knowing how it would be fully implemented and how it effects the individual's needs. She suggested delaying the rule until there was a consensus between the stakeholders and the Department. **Senator Smyser** asked if the Department's plan

would assure the public that if they had a concern, they would be willing to work with them. **Mr. Simnitt** answered that there are operational groups going on right now involving families, providers, and advocates. The Department has a good framework to respond to concerns and work on them. **Senator Schmidt** asked **Mr. Simnitt** to clarify how the budget would add up if the maximum amount is \$29,000, but some individuals would qualify for more. He responded that when you look at the estimates within each category, it does add up. **Senator Schmidt** followed up by asking if it would be possible for someone with a budget of \$29,000 to reach 22 hours of services. **Mr. Simnitt** answered that yes, an individual would be able to get an array of services to make up 22 hours of service. **Senator Vick** asked how this redesign would have no general fund impact if it is moving the services provided by the school to services provided by the general fund. **Mr. Simnitt** answered that the budget money mentioned in the redesign is only for community benefits that kids are already accessing.

**MOTION:**

**Senator Bock** moved, seconded by **Senator Nuxoll**, to hold **Docket No. 16-0310-1002** in Committee to be voted on, Thursday, February 3, 2011. The motion carried by **voice-vote**.

**Vice Chairman Broadsword** announced that due to time constraints, **Docket No's. 16-0313-1002, 16-0321-1001, 16-0411-1001** will be heard on Thursday, February 3rd and returned the gavel to **Chairman Lodge**. **Senator Bock** asked if the Committee could have a special meeting with the Department and stakeholders before Thursday. **Chairman Lodge** asked if **Ms. Clement** would let the Committee know if there was a good time for them and stated that it would have to be put on the agenda. **Ms. Clement** stated that she did not believe another meeting would help after two years of work on this redesign program. The Department cannot afford to move to a completely individualized budget system and she would prefer to move the adult program to something closer to this proposed redesign as well. She believes that a decision will have to be made. Although the budget will only cover some services, there are many extra therapies and services offered that are not a part of the budget. **Senator Darrington** commented that the information **Ms. Clement** just offered would be helpful to the Committee in making a decision. **Senator Nuxoll** asked what abuses the Department is trying to get rid of with this redesign. **Ms. Clement** answered that there are not abuses per say, but the lack of a system. It is very unorganized and doesn't offer as much.

**Chairman Lodge** thanked **Ms. Clement** for her comments. She reminded the Committee to reach **Ms. Clement, Mr. Simnitt, or Mr. Leary** if they had any further questions, and that the Committee will vote on **Docket No. 16-0310-1002** on Thursday.

**ADJOURNMENT:** There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 4:37 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Tuesday, February 01, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
16-0309-1005	Rules Relating to Medicaid Basic Plan Benefits (Temporary)	Paul Leary
16-0310-1006	Rules Relating to Medicaid Enhanced Plan Benefits (Temporary)	Paul Leary
16-0411-1101	Rules Relating to Developmental Disability Agencies (Temporary)	Eric Brown
16-0309-1003	Rules Relating to Medicaid Basic Plan Benefits (Pending)	Sheila Pugatch
16-0309-1004	Rules Relating to Medicaid Basic Plan Benefits (Temporary)	Sheila Pugatch
16-0310-1003	Rules Relating to Medicaid Enhanced Plan Benefits (Pending)	Sheila Pugatch
16-0310-1004	Rules Relating to Medicaid Enhanced Plan Benefits (Temporary)	Sheila Pugatch
16-0310-1102	Rules Relating to Medicaid Enhanced Plan Benefits (Temporary)	Sheila Pugatch
16-0310-1101	Rules Relating to Medicaid Enhanced Plan Benefits (Temporary)	Sheila Pugatch

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, February 01, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:03 p.m. and thanked the guests for coming. **Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** to begin the rules review. **Vice Chairman Broadsword** stated that there would be a change in the scheduled agenda. **Docket No. 16-0310-1003** will be postponed until Thursday February 3rd.

**Docket No. 16-0309-1005** **Rules Relating to Medicaid Basic Plan Benefits (Temporary): Paul Leary**, Deputy Administrator, Division of Medicaid, Department of Health and Welfare (DHW), stated these changes reflect DHW's response to the legislative intent language, specifically Sections 13 and 14 of the Medicaid fiscal year 2011 appropriation bill, H 701, approved by the 2010 Legislature. He advised that DHW held over 30 meetings with providers, established a web page – IDAHOMEDICAIDNEEDS YOURIDEAS – and administered two surveys seeking cost-saving suggestions, one for providers and one for non-providers. **Mr. Leary** provided the Committee with a summary of those surveys (see Attachment #1), as well as a list of cost-saving suggestions from providers and stakeholders (see Attachment #2). He noted that DHW utilized comments received for the rule changes where the changes allow for the state to maintain a viable, but reduced program for as many vulnerable Idaho citizens, and as similar in design to the current program as possible, within the fiscal climate. Following the Legislature's direction, these rule changes reduce the Medicaid benefit package rather than eliminating whole optional categories of Medicaid services or benefits. **Mr. Leary** then reviewed the specific changes in this docket, advising that DHW will continually and actively monitor these changes to assure minimal impact to participants. He noted that for fiscal year 2011 these changes represent an estimated state general fund savings of \$149,000 and a total Medicaid budget savings of \$626,000 based on the increased federal funding match available through the end of fiscal year 2011. He further noted that on an annual basis, for fiscal year 2012, based on the regular federal funding match rate, these changes represent an estimated savings of \$382,000 in general fund and \$1,252,000 of total funds. **Mr. Leary** requested that the Committee adopt Docket No. 16-0309-1005.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 3).

**Senator Bock** asked if the changes in the rule were pre-existing or new to the temporary rule. **Mr. Leary** answered that the changes are new changes effective on January 1, 2011. **Vice Chairman Broadsword** asked if this rule would return to the Committee next year. **Mr. Leary** answered yes.

**TESTIMONY:** **Kelly Keele**, Mental Health Providers Association of Idaho, spoke **in support** of **Docket No. 16-0309-1005**. He commended the Department on their efforts to preserve what services they could. **Mr. Keele** suggested that the Committee recommend to JFAC to extend these rules past their sunset date of June 30th, 2011 through the 2012 fiscal year. The concerns he has are the reduction from 12 hours to 4 hours for plan assessment and the elimination of collateral contact.

**Kellie Humpherys**, All Seasons Mental Health, a private employer who employs 150 people, spoke **in opposition** to **Docket No. 16-0309-1005**. She is concerned about the collateral economic impact.

**Ann Phillips**, employed in the developmental disabilities field for over 30 years in Idaho, spoke **in opposition** of **Docket No. 16-0309-1005**.

**Vice Chairman Broadsword** asked **Mr. Leary** to return to the stand and address questions that were brought up during testimony. In reference to a question about the impact on services, **Mr. Leary** stated that this docket had no impact on developmental disability services, but the next docket will.

**MOTION:** **Senator Heider** moved, seconded by **Senator Smyser**, to adopt **Docket No. 16-0309-1005**. The motion carried by **voice-vote**.

**Docket No. 16-0310-1006** **Rules Relating to Medicaid Enhanced Plan Benefits (Temporary):** **Mr. Leary** stated that numerous changes are being made to this chapter of rule that either eliminate or modify specific benefits or services provided by Medicaid. These changes are being made in order to achieve cost savings under the provisions of Sections 13 and 14 of the Medicaid fiscal year 2011 appropriation bill, H 701, approved by the 2010 Legislature. DHW utilized comments from stakeholder meetings and surveys (see Attachment #1) for these rule changes where the changes allow for the state to maintain a viable, but reduced program for as many vulnerable Idaho citizens, and as similar in design to the current program as possible, within the fiscal climate. Following the Legislature's direction these rule changes reduce the Medicaid benefit package rather than eliminating whole optional categories of Medicaid services or benefits. **Mr. Leary** then reviewed the specific changes in this docket, advising that DHW will continually and actively monitor these changes to assure minimal impact to participants. He noted that for fiscal year 2011 these changes represent an estimated state general fund savings of \$1,827,000 and a total Medicaid budget savings of \$7,695,000 based on the increased federal funding match available through the end of fiscal year 2011. On an annual basis, for fiscal year 2012, based on the regular federal funding match rate, these changes represent an estimated savings of \$4,690,000 in general fund and \$15,385,000 of total funds. **Mr. Leary** requested that the Committee adopt **Docket No. 16-0310-1006**. He advised that DHW experts are present to respond to specific questions the Committee may have to their area of interest.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 4).

**Vice Chairman Broadsword** asked if the cost savings mentioned to the general fund was figured into the Medicaid budget for fiscal year (FY) 2012. **Mr. Leary** deferred the question to **Leslie Clements**, Administrator, Division of Medicaid, DHW. **Ms. Clements** advised that it is not incorporated for FY 2012 and is up to the legislature to decide where the shortfall will be applied. However, it is included in FY 2011 to meet budget. **Senator Schmidt** asked if target savings had been met in the different programs. **Mr. Leary** advised that targeted savings were met or exceeded only in the Nursing Home and Hospital areas.

**Senator Bock** asked if someone diagnosed with a developmental disability and a severe mental illness would have to choose between one of the two services for skill development. **Mr. Leary** responded that is correct. **Senator Bock** followed up by asking what the savings was by doing this. **Mr. Leary** advised that there is a monthly savings of \$81,000 to the general fund. **Senator Bock** asked how it is possible to separate services for someone suffering from Bi-polar disorder and severe developmental disabilities. **Mr. Leary** deferred the question to **Pat Guidry**, Program Manager, Office of Mental Health and Substance Abuse, Division of Medicaid, DHW. **Ms. Guidry** advised that an individual with both a mental illness and a developmental disability can still get both kinds of services, only skill training services are restricted to one program or the other.

**Senator Smyser** asked who provides coordination services. **Ms. Guidry** advised that the Developmental Disabilities Service Coordinator works with the individual to help select the proper service for skill training, making sure the services are not duplicated, that they match the individuals health care needs, and should they select skill training through Developmental Disabilities Services, that they are connected to mental health services. **Senator Smyser** asked for a scenario in which an individual who has both a developmental disability and mental health issues can go about getting services. **Ms. Guidry** responded that for anyone receiving developmental disability services, the service coordinator, the agency, or any other person involved with the individual can call the Mental Health Office and DHW will make sure they are connected for the appropriate services. She deferred the question to **Paige Grooms**, Alternative Care Coordinator, Bureau of Developmental Disability Services, Division of Medicaid, DHW, for further comment. **Ms. Grooms** advised that DHW notifies individuals of any changes to benefits affecting them. Prior to the implementation of the temporary rules January 1, 2011, letters were sent to every Medicaid participant describing the changes and letting them know who they could contact if they had difficulties.

**Senator Nuxoll** asked if Home Health Skilled Nursing service would be eliminated with this rule. **Mr. Leary** responded that a waiver is needed for Home Health Skilled Nursing Service as DHW does not want to duplicate services if an individual is already getting some kind of home care.

**TESTIMONY:**

**Mr. Keele**, Mental Health Providers Association of Idaho, spoke **in opposition** to **Docket No. 16-0310-1006**. He stated that he does not agree with the Department's presentation that skill training is the same if provided for in a mental health service or developmental disability service. He has concerns about the reduction in hours of assessment and the elimination of supportive counseling.

**Senator Bock** stated that in the Department's presentation skill training would be provided, but will only be provided once and asked why **Mr. Keele** felt it would not be provided or that it would be provided by someone not qualified. **Mr. Keele** replied that developmental therapy skills training is not the same as mental health skills training and he does not believe that it will not be provided, he believes that it needs to be provided in both programs. **Senator Bock** asked **Mr. Keele** if he believes someone who is not qualified to provide mental health services will be providing mental services. **Mr. Keele** responded that this is one of the issues with this rule. A person is forced to choose between Developmental Therapy Skill Training and Mental Health Skill Training. **Vice Chairman Broadsword** stated that each individual involved has a caseworker who would work to make sure the individual was not harmed by this change. **Mr. Keele** stated that an individual needs skill training from both programs to help them.

**Kathie Garrett**, Board of Directors, National Alliance for Mental Illness, spoke **in opposition** to **Docket No. 16-0310-1006**, stating that it forces a person to chose which kind of service they want.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 5).

**Kim Simpson**, mother of a daughter who received developmental disability and mental health services, spoke **in opposition** to **Docket No. 16-0310-1006**. She stated that in December 2010, the Department notified her that they would have to pick one of the services. After calling the Department, filling out forms for waivers, and being reassured that her daughter would still receive both services, the services were cancelled. This had negative effects on her daughter's behavior.

**Mike Skelton**, Program Manager, All Together Now, Inc., spoke **in opposition** to **Docket No. 16-0310-1006**. He stated that a young man was negatively affected by getting services for mental health from a developmental disability provider.

**Vice Chairman Broadsword** asked **Mr. Leary** to return to the stand and address the issues and questions brought up during testimony. **Mr. Leary** stated that these rule changes are the result of 30 provider meetings where many comments were received. An individual will still get all other services, but skill training will be given in either the mental health program or developmental disability programs, that is the only change. **Vice Chairman Broadsword** asked how **Ms. Simpson** can change the plan they have now, so that her daughter can get the treatment she needs. **Mr. Leary** answered that the Periodic Screening Diagnosis and Treatment is programed for children to make sure they get every service they need. They look at the applications for more services. **Vice Chairman Broadsword** asked if **Ms. Simpson** should find a mental health provider to help her fill out that form. **Mr. Leary** responded that if she has any issues filling the form out, she may call the Department and they will help her.

**Senator Schmidt** asked about Section 124.06, where it says participants who receive skill training in psychosocial rehabilitation (PSR) can not receive skill training in partial care, developmental therapy, intensive behavioral intervention, or residential habilitation services and what the thinking was behind this. **Mr. Leary** deferred to **Ms. Guidry** to respond to this question. **Ms. Guidry** answered that policy is reflecting the principle DHW was trying to achieve across the benefits that skill training is skill training. An individual should get skill training from a program based on their needs. **Senator Schmidt** asked if this meant an individual must choose one skill, that they are not eligible for skill training in more than one area. **Ms. Guidry** replied that all policies attempt to promote that the health care services a participant receives match their health care needs. So, if a participant needs skill training, there are a variety of programs where they may get this. The policy states that the participant should select the program where they receive this skill training. It doesn't eliminate other services.

**Senator Nuxoll** asked, if an individual was ready to quit one type of skill services, could they go to another type of skill services. **Ms. Guidry** answered that an individual does not give up the opportunity to experience service, decide if it is good for them or not, and then quit that service if they so decide. **Senator Nuxoll** followed up by asking if someone needs PSR first and then wants to move on, could they. **Ms. Guidry** answered yes.

**MOTION:**

**Senator Vick** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 16-0310-1006**. The motion carried by **voice-vote**, with **Senator Bock** voting "Nay." **Vice Chairman Broadsword** requested that the Department continue to work with stakeholders to ease concerns and answer questions.

**Docket No.  
16-0411-1101**

**Rules Relating to Developmental Disability Agencies (Temporary): Eric Brown**, Program Supervisor, Bureau of Licensing and Certification, Division of Medicaid, DHW stated DHW is making several changes in this docket which will help meet DWH's appropriations budget for Fiscal Year 2011. The changes include clarification of assessment requirements for individuals receiving developmental disability services, and the removal of supportive counseling and collateral contact services. These changes will not affect the quality of care or access to services. **Mr. Brown** requested the Committee approve **Docket No. 16-0411-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 6).

**MOTION:**

**Chairman Lodge** moved, seconded by **Senator Smyser**, to adopt **Docket No. 16-0411-1101**. The motion carried by **voice-vote**.

**Docket No.  
16-0309-1003**

**Rules Relating to Medicaid Basic Plan Benefits (Pending): Sheila Pugatch**, Principal Financial Specialist, Division of Medicaid, stated rule changes are being made in these rules to implement the legislative intent in H656 and H708 passed by the 2010 legislature, as well as the Medicare Modernization Act. She reviewed the rule changes for the Committee. **Ms. Pugatch** requested the Committee approve **Docket No. 16-0309-1003**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 7).

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Vick**, to adopt **Docket No. 16-0309-1003**. The motion carried by **voice-vote**.

**Docket No.  
16-0309-1004**

**Rules Relating to Medicaid Basic Plan Benefits (Temporary): Ms. Pugatch** stated rule changes are being made in these rules to implement the legislative intent in H656 and H701 passed by the 2010 legislature. Rules changes for this docket include: reduction to outpatient hospital costs; and change in definition for hospital floor reimbursement percentage. **Ms. Pugatch** requested the Committee approve **Docket No. 16-0309-1004**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 8).

**Vice Chairman Broadsword** asked if this had saved us \$25,000,000 last year and was expected to do the same again this year. **Ms. Pugatch** answered yes. **Vice Chairman Broadsword** followed up by asking if private hospitals participate in this treatment. **Ms. Pugatch** answered that yes, except those specific hospitals that are exempt, by statute.

**MOTION:**

**Senator Heider** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 16-0309-1004**. The motion carried by **voice-vote**.

**Docket No.  
16-0310-1004**

**Rules Relating to Medicaid Enhanced Plan Benefits (Temporary): Ms. Pugatch** stated rule changes are being made in these rules to implement the legislative intent in H701 and H708 passed by the 2010 legislature. Rule changes for this docket include: nursing facility inflation freeze; and Intermediate Care Facility for the Mentally Retarded (ICF/MR) inflation rate freeze. **Ms. Pugatch** requested the Committee approve **Docket 16-0310-1004**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 9).

**TESTIMONY:**

**Robert Vandemer**, Executive Director, Idaho Health Care Association, spoke in support of **Docket No. 16-0310-1004** stating that the nursing home assessment bill will be coming before the Committee soon, which will increase the assessment to make up for these cuts.

**Senator Bock** asked if the bill and the rule were in accord with each other. **Mr. Vandemer** replied yes, they are not conflicting.

**MOTION:** **Chairman Lodge** moved, seconded by **Senator Bock**, to adopt **Docket No. 16-0310-1004**. The motion carried by **voice-vote**.

**Docket No. 16-0310-1102** **Rules Relating to Medicaid Enhanced Plan Benefits (Temporary): Ms. Pugatch** stated this rulemaking changes Nursing Facilities Services by adding new subsections of rule that describe the nursing facility assessment and the nursing facility adjustment payment. These changes allow additional assessments on skilled nursing facilities to maintain adequate state trustee and benefit funds to the extent that a general fund shortfall exists or as limited by the maximum assessment of 5.5%. An additional purpose is to draw down additional federal matching funds by maximizing reimbursement for allowable costs available through the state Medicaid plan. **Ms. Pugatch** requested the Committee approve **Docket No. 16-0310-1102**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 10).

**Senator Vick** asked for an explanation on the nursing facility assessment. **Ms. Pugatch** explained that they calculate a certain amount of money per day that the nursing facility will be assessed, last year it was at \$3.00 per medicaid day. **Vice Chairman Broadsword** noted that the money is used by nursing homes to match federal dollars.

**MOTION:** **Senator Heider** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 16-0310-1102**. The motion carried by **voice-vote**.

**Docket No. 16-0310-1101** **Rules Relating to Medicaid Enhanced Plan Benefits (Temporary): Ms. Pugatch** stated these rules are being amended to reflect reimbursement methodologies that have been recently approved by the Centers for Medicare and Medicaid through the Medical Assistance State Plan amendment process for mental health clinics, developmental disability agencies, and rehabilitative mental health services. The reimbursement methodologies for these providers in the current rules are no longer accurate. **Ms. Pugatch** requested the Committee approve **Docket No. 16-0310-1101**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 11).

**Vice Chairman Broadsword** asked if this was budget neutral. **Ms. Pugatch** answered yes, they have not changed the reimbursement rate for services.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Bock**, to adopt **Docket No. 16-0310-1101**. The motion carried by **voice-vote**.

**ADJOURNMENT:** **Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**. **Chairman Lodge** thanked the Committee and the presenters. There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 4:24 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, February 02, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
16-0309-1001	Rules Relating to Medicaid Basic Plan Benefits (Pending)	Jeff Weller
16-0309-1002	Rules Relating to Medicaid Basic Plan Benefits (Pending)	Matt Wimmer
16-0310-1007	Rules Relating to Medicaid Enhanced Plan Benefits (Temporary)	Matt Wimmer
16-0310-1001	Rules Relating to Medicaid Enhanced Plan Benefits (Pending)	Natalie Peterson
16-0310-1005	Rules Relating to Medicaid Enhanced Plan Benefits (Temporary)	Pat Guidry
16-0319-1001	Rules Relating to Certified Family Homes (Pending)	Randy May
<b>PRESENTATION</b>	Idaho Department of Corrections Update	Director, Brent Reinke and Shane Evans

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, February 02, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:03 p.m. and welcomed the guests.

**MOTION:** **Senator Bock** moved, seconded by **Senator Nuxoll**, to approve the January 13, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Vick**, to approve the January 25, 2011 minutes as written. The motion carried by **voice-vote**.

**Chairman Lodge** passed the gavel to **Vice Chairman Broadsword** to begin the rules review.

**Docket No. 16-0309-1001** **Rules Relating to Medicaid Basic Plan Benefits (Pending):** **Jeff Weller**, Supervisor, Financial Operations Unit, Division of Medicaid, Department of Health and Welfare (DHW), stated that statute changes effective on July 1, 2010, required DHW to provide a model form for Notice of Transfer or Encumbrance to be used by a Medicaid recipient or his representative when notifying the Department of transferring real property. This notification process also includes a Request for Notice and Termination of Request for Notice and will help Medicaid recipients avoid unintentionally making themselves ineligible for benefits and will allow the Department to be informed if a family member makes an unlawful property transfer. **Mr. Weller** requested the Committee approve Docket No. 16-0309-1001.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 1).

**Senator Bock** asked if **Mr. Weller** would summarize the rule change and why it is necessary. **Mr. Weller** deferred to **Corey Cartwright**, Deputy Attorney General, who stated that the Medicaid log prohibits DHW from filing liens for the lifetime of the Medicaid recipient, except for a few circumstances. This rule allows DHW to file a request for notice so if a property transfer is made or the property is encumbered DHW will be notified. **Senator Darrington** asked if there was a 5-year look back in effect now. **Mr. Cartwright** answered yes. **Senator Darrington** followed up by asking what would happen to business arrangements created by partners or families, such as LLC.s, where the individual property loses its identity and becomes part of the entity and if you could go back after those assets in that situation. **Mr. Cartwright** responded that they have not had a situation like that arise yet, but it would require an examination in each situation to determine if an asset is being transferred in the wrong way. **Senator Bock** asked how the Department would handle a situation in which a living trust was created, but the property is still under control of the guarantor of the trust. **Mr. Cartwright** answered that DHW has encountered this situation and there are federal laws in

place to cover what will happen. When something is transferred to a living trust, it is considered an asset. There are situations where a person could have a living trust and still qualify for Medicaid. However, should the individual on Medicaid with the living trust pass away, DHW may recover from that trust. **Senator Bock** followed up by asking if DHW could recover from the trust because of a prior lien. **Mr. Cartwright** answered that it is an odd situation, but Idaho Code 56.-218.04. specifically makes certain things like trusts and life estates are assets of the estates and subject to recovery by Medicaid.

**MOTION:** **Senator Heider** moved, seconded by **Senator Vick**, to adopt **Docket No. 16-0309-1001**. The motion carried by **voice-vote**.

**Docket No. 16-0309-1002** **Rules Relating to Medicaid Basic Plan Benefits (Pending):** **Matt Wimmer**, Program Manager, Division of Medicaid, stated the DHW is implementing a selective contract system for the federally mandated non-emergency medical transportation services based on legislative intent for controlling costs, while improving quality and sustaining access. These rules provide the non-emergency medical transportation requirements for a transportation brokerage system for Medicaid participants who have no other means to receive Medicaid covered services. He stated that the fiscal impact would be a \$500,000 savings annually without impacting access to service for participants. **Mr. Wimmer** requested the Committee approve **Docket No. 16-0309-1002**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 2).

**Vice Chairman Broadsword** noted that there has been some concern about non-emergency medical transport by people abusing the system and asked the Department to notify people not to use the transport service unless they have a medical appointment. **Senator Heider** asked if an agency transporter had been used for transportation service previously. **Mr. Wimmer** answered that agency transporters were one of three categories of transporters that were used. **Senator Vick** asked about the discrepancy in the amount of fiscal impact from the testimony and the actual rule. **Mr. Wimmer** answered that the initial information about the fiscal impact was incorrect and the DHW has corrected that estimate.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Schmidt**, to adopt **Docket No. 16-0309-1002**. The motion carried by **voice-vote**.

**Docket No. 16-0310-1007** **Rules Relating to Medicaid Enhanced Plan Benefits (Temporary):** **Mr. Wimmer** stated the DHW is implementing a selective contract system for the Medicaid Enhanced Plan Benefits dental services based on legislative intent to control costs, improve access, and maintain quality. These rules provide the needed changes to implement the "Idaho Smiles" insurance plan through Blue Cross of Idaho for eligible enhanced plan participants. **Mr. Wimmer** requested the Committee approve **Docket No. 16-0310-1007**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 3).

**Senator Vick** asked if coverage was being expanded under this rule. **Mr. Wimmer** answered no, this is not an expansion. **Senator Schmidt** asked how the contract is negotiated. **Mr. Wimmer** replied that the Department put out a request for a proposal for these services, there were two respondents, and a competitive bidding. **Senator Schmidt** followed up by asking if this happened annually. **Mr. Wimmer** replied that the contract was locked in for 3 years, until 2013.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0310-1007**. The motion carried by **voice-vote**.

**Docket No.  
16-0310-1001**

**Rules Relating to Medicaid Enhanced Plan Benefits (Pending): Natalie Peterson**, Bureau Chief, Long-Term Care Program, Division of Medicaid, stated in order to safeguard the provision of services under the Home and Community Based Services (HCBS) waiver programs, the current rules are being aligned with both federal regulations and the CMS-approved HCBS waiver requirements. **Ms. Peterson** requested the Committee approve **Docket No. 16-0310-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 4).

**MOTION:**

**Senator Schmidt** moved, seconded by **Chairman Lodge**, to adopt **Docket No. 16-0310-1001**. The motion carried by **voice-vote**.

**Docket No.  
16-0310-1005**

**Rules Relating to Medicaid Enhanced Plan Benefits (Temporary): Pat Guidry**, Program Manager, Office of Mental Health and Substance Abuse, Division of Medicaid, DHW, stated these rules are in response to HCR 48 from the 2006 Legislature, and are focused on continuing Mental Health program revisions that will help clarify program elements and establish supervision and minimum professional requirements. Medicaid is setting requirements for educational standards, national certification through the United States Psychiatric Rehabilitation Association (USPRA) and standards for supervision of PSR workers to promote improved quality, effectiveness, and efficiency in the delivery of PSR services to participants. The following changes are being made to the PSR specialists qualifications: 1. Incorporate newly defined supervision requirements; 2. Include clarification of PSR specialist "continuing" education requirements; and 3. Revise PSR specialist education requirements. **Ms. Guidry** requested the Committee approve **Docket No. 16-0310-1005**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 5).

**Senator Schmidt** asked how many states use USPRA for certification. **Ms. Guidry** answered that she does not have the exact number, but she believes it is 23. **Senator Schmidt** asked if the consideration for this was to avoid the state going through the licensure or certification process. **Ms. Guidry** answered that there have been recent conversations about licensure, but she believes they are not ready to take it on.

**TESTIMONY:**

**Tami Jones**, President of Idaho Behavioral Health, President of Mental Health Providers Association of Idaho, spoke **in support** of **Docket No. 16-0310-1005**. She stated that she is in support of the rule, but would like to see additional changes.

**Vice Chairman Broadsword** stated that once a rule is adopted it cannot be changed and that this rule is temporary and will be back next year. **Senator Bock** asked **Ms. Jones**, after hearing about the Committee's lack of ability to change the rule once it is adopted, would she still suggest moving forward. She answered yes.

**Kelly Keele**, Mental Health Providers Association of Idaho, spoke **in support** of **Docket No. 16-0310-1005**. **Mr. Keele** stated that the rule needs to be adopted in order to allow PSR specialists who have not become a Certified Psychiatric Rehabilitation Specialist or obtained a Certificate in Children's Psychiatric Rehabilitation to continue working. However the rule contains confusing language and he suggests postponing this docket until the Department can present a workable revised rule, after meeting with providers this week.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 6).

**Senator Smyser** asked **Ms. Guidry** to address some of the issues **Mr. Keele** had raised. **Ms. Guidry** stated that an individual needs either a certification in adult psychiatric rehabilitation or childrens psychiatric rehabilitation to work in the entire field. **Vice Chairman Broadsword** noted that the Committee's rules deadline was Thursday, but she is sure the Department is more than willing to continue to work with **Mr. Keele** and other stakeholders.

**TESTIMONY:** **Matt Scuri**, General Manager and Chief Financial Operator, All Horizon, Inc., spoke in opposition to **Docket No. 16-0310-1005** stating that the rule is bad for industry and will hurt progress.

**Chairman Lodge** asked if **Mr. Scuri** had taken his concerns to the Department, when he had, and in what way. **Mr. Scuri** responded that he had been consistently providing feedback to the Department for the last 18 months. He stated that he has email logs of what was sent back and forth. **Senator Darrington** noted the inconsistency in the Department's presentation and **Mr. Scuri's** testimony. He asked that **Ms. Guidry** address the issues that were raised during testimony. **Ms. Guidry** stated she has had no communication with **Mr. Scuri**. **Ms. Guidry** also stated this docket is by no means intended to represent all the reforms that are needed in the PSR program. It is a good interim step for the State to make in terms of ensuring that the Medicaid-supported PSR workforce is competent and is engaged in the delivery of psychiatric rehabilitation services as a profession according to standards of the national association established to ensure such quality. **Vice Chairman Broadsword** asked if the rule is adopted, will the Department continue to work on it. **Ms. Guidry** replied yes.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Smyser**, to adopt **Docket No. 16-0310-1005**. The motion carried by **voice-vote**.

**Docket No.  
16-0319-1001**

**Rules Relating to Certified Family Homes (Pending):** **Randy May**, Deputy Administrator, Division of Medicaid, DHW, stated these changes update safety and sanitation requirements for Certified Family Homes (CFH). Manufactured homes and modular homes must meet certain requirements at the time of manufacture. Recreational vehicles, commercial coaches, or unregulated or unapproved modifications to approved manufactured or modular homes, and manufactured housing constructed prior to June 15, 1976, are prohibited for use as a certified family home without Department assessment and approval. Non-municipal sewage disposal requirements for proof the septic tank was pumped has been changed from 3 to 5 years. Also, rules governing guardianship of residents by the certified family home provider have been amended to require that a CFH provider cannot be the guardian of a CFH resident unless the resident is a son or daughter, a parent, a sibling, or a grandparent. **Mr. May** requested the Committee approve **Docket No. 16-0319-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 7).

**Chairman Lodge** stated that 65% of CFH Providers are taking care of family members and asked if **Mr. May** knew how many of the 65% were taking care of their own children under the age of 18. He replied that a CFH is only for adults. **Senator Schmidt** asked if the grandfather phrasing in the rule which was removed, was necessary. **Mr. May** answered that when the Department sat down with stakeholders, both agreed that they did not want to leave that phrasing in the rule. **Senator Nuxoll** asked for clarification why CFH providers may not be the guardian of any resident unless the guardian is a parent, child, sibling, or grandparent of the resident. **Mr. May** stated that to prevent abuse of the system by the provider, the intent is there be a relationship between the provider and resident. He noted there have been situations where providers will keep a resident's monthly allowance to use for themselves. **Senator Nuxoll** followed up by asking if this meant that you

could take someone in, but not be their legal guardian, unless related. **Mr. May** answered yes.

**TESTIMONY:** **Cathy Hart**, Idaho State Long-term Care Ombudsmen, Idaho Commission on Aging, spoke **in support** of **Docket No. 16-0319-1001**.

**Christine Pisain**, Programs Specialist, Idaho Council on Developmental Disabilities, spoke **in support** of **Docket No. 16-0319-1001**, stating that she specifically supports the changes in 100.04, C.

**Marilyn Sword** provided written testimony **in support** of **Docket No. 16-0319-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 8).

**Corinna Stiles**, Advocacy Director, Disability Rights of Idaho, spoke **in support** of **Docket No. 16-0319-1001**.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0319-1001**. The motion carried by **voice-vote**.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**. **Chairman Lodge** welcomed **Brent Reinke**, Director, Idaho Department of Correction (IDOC) and **Shane Evans**, Division Chief of Education and Treatment, IDOC, for coming before the Committee today.

**PRESENTATION** **Idaho Department of Corrections Update:** **Director Reinke** provided the Committee with the annual report for fiscal year 2010. He stated that during the last session IDOC was given permission to expand their retained jurisdiction program from 180 days to 365 days, which resulted in IDOC's ability to meet the request the court has had for IDOC to create ways for individuals who had severe drug and alcohol problems to be put into a shorter program. The Trio of Options is the solution. He advised that IDOC is currently 2,000 inmates below projections.

**Director Reinke** played a short DVD explaining the Trio of Options developed by IDOC. After an offender is evaluated at the reception and diagnostic unit, they are placed in the proper treatment program. If a court doesn't believe probation is appropriate for an offender, nor do they believe prison is necessary, the offender may be placed in a treatment program instead. The Trio of Options consists of a Correctional Alternative Placement Program (CAPP) which is a 90 day treatment, Retained Jurisdiction Program (Traditional Rider) which is a 120-180 day treatment, and Therapeutic Community Retained Jurisdiction Program (TC Rider) which is a 270 day treatment. CAPP is available to lower risk male offenders with substance abuse issues. CAPP is one treatment option for offenders sentenced to retained jurisdiction, parole violators, and as discretionary jail time for offenders on probation. The Traditional Rider program is a substance abuse program designed for offenders with education and unemployment challenges. The program includes relapse prevention, drug and alcohol education, parental programs, and academic programs. Sixteen hours a week are spent in group therapy sessions. The Traditional Rider program is available at four facilities across the state. The TC Rider program is designed for higher risk offenders with elevated substance abuse and criminal issues. It is offered at two facilities in Idaho.

**Shane Evans**, Chief of Education and Treatment, IDOC, stated that about 20%-25% of the male population and 50%-70% of the female population in the corrections system have a diagnosable mental issue. IDOC has embedded into its mental health care system five levels of care. The levels go from the low end which is a problem that can be managed with medication and no services, to the higher end which includes the acute unit and those who are in complete decompensation and require intensive mental health services. **Mr. Evans** stated that IDOC has enhanced the family opportunity by implementing a behavioral health unit and competency restoration unit in Pocatello.

**Senator Vick** asked what kind of input an inmate has about participating in these programs. **Mr. Evans** stated that an inmate always has the opportunity to say no, but saying no comes with consequences. IDOC uses a technique called motivational interviewing to help engage the ambivalence that many inmates, especially new inmates, come with. The inmates are engaged at least every 90 days to give them an opportunity to participate in treatment programs. **Senator Vick** asked what the completion rate is for each program in the Trio of Options. **Mr. Evans** stated the CAPP program is new. IDOC is only 6 months into it and the current success rate is around 97%. The Traditional Rider program is about 85%-90% successful. The TC Rider is about 75% successful. **Chairman Lodge** asked how many individuals were in the CAPP and TC Rider programs. **Mr. Evans** answered that there are 320 inmates currently in CAPP and 600 individuals in the TC Rider program. **Senator Schmidt** asked if uninsured inmates with health care issues were covered by health and welfare. **Director Reinke** stated that a contract provider provides all medical, mental health, and pharmaceutical services and it is a general fund expense.

**Director Reinke** thanked the Committee for the opportunity to give this presentation and offered anyone on the Committee the opportunity to go on a ride-along with probations and parole or visit one of the correction facilities. **Chairman Lodge** encouraged the Committee to take up **Director Reinke's** offer of a ride along or tour. **Senator Bock** stated that the ride along is very interesting and he was impressed with the professionalism of the parole and probation officers out in the field. Chairman Lodge thanked **Director Reinke** and **Mr. Evans** for coming.

**ADJOURNMENT:** There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 4:53 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Thursday, February 03, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>16-0737-1001</b>	Rules Relating to Children's Mental Health Services - Allowing the Department to limit and prioritize children's mental health services, including eligibility (Pending)	Chuck Halligan
<b>16-0310-1002</b>	Rules Relating to Medicaid Enhanced Plan Benefits - Redesign developmental disabilities (DD) benefits for children (Pending) <b>-VOTE ONLY-</b>	David Simnitt
<b>16-0313-1002</b>	Rules Relating to Consumer Directed Services - Redesign of children's developmental disabilities benefits including a Family-Directed Services (FDS) option as part of Home and Community Based Services (HCBS) waivers for children and a related State Plan option (Pending)	David Simnitt
<b>16-0321-1001</b>	Rules Relating to Developmental Disabilities Agencies - Replaces existing licensing and certification requirements (Pending)	Eric Brown
<b>16-0411-1001</b>	Rules Relating to Developmental Disabilities Agencies - Repeal of Chapter (Pending)	Eric Brown
<b>16-0310-1003</b>	Rules Relating to Medicaid Enhanced Plan Benefits - Clarifies nursing facility coverage and limitations, inflation rate freeze, efficiency incentives, special rate payment offset, and incentive changes for Intermediate Care Facilities for people with intellectual disabilities (Pending)	Sheila Pugatch

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge

Vice Chair Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WG48

Phone: (208) 332-1319

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, February 03, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and passed the gavel to **Vice Chairman Broadsword** to start rules review.

**Docket No. 16-0737-1001** **Rules Relating to Children's Mental Health Services (Pending):** **Chuck Halligan**, Program Manager, Children's Mental Health Program, Division of Behavioral Health, Department of Health and Welfare (DHW), stated these rule changes allow DHW to limit and prioritize Children's Mental Health Services, including eligibility. This is necessary due to the reductions in appropriations. These changes give DHW the ability to focus the available resources on those who have the greatest clinical and financial needs. In addition, these rule changes align the Children's Mental Health Services rules with the corresponding rules in IDAPA 16.07.33, "Adult Mental Health Services." **Mr. Halligan** requested that the Committee approve **Docket No. 16-0737-1001**.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Senator Schmidt** asked if DHW is required to provide court ordered therapy and how much of the budget is used for it. **Mr. Halligan** answered yes, in fiscal year 2010, DHW served 173 youth in court ordered cases costing \$809,000. **Senator Bock** noted in the rule, the purpose mentioned is to limit, prioritize, and define eligibility. He asked if DHW wasn't already able to do all of that. **Mr. Halligan** responded yes, DHW is adding to the eligibility requirements by adding a financial eligibility requirement. This will mean if a family has resources and the ability to pay, they will have access to services and be asked to reimburse DHW for them. **Senator Darrington** asked if there is more than one delivery system for children's mental health services or if this is the only one. **Mr. Halligan** replied that there is a dual system. The Division of Behavioral Health, Children's Mental Health Services provides services to eligible children, and those children may have Medicaid and be able to access services that way. **Vice Chairman Broadsword** asked if this program has achieved the financial savings that were anticipated. **Mr. Halligan** replied yes.

**TESTIMONY:** **Courtney Santillan**, Executive Director, Idaho Federation of Families for Children's Mental Health, spoke in **opposition** to **Docket No. 16-0737-1001**. She feels this rule change will significantly reduce the amount of families who have access to children's mental health programs and services, which will cause more families to use the criminal justice system to access services, increasing the costs of court ordered therapy.

**Vice Chairman Broadsword** asked if **Ms. Santillan** feels families who can financially afford to provide services for their children should have access to DHW services. She replied that families should be able to come to DHW to seek help when they do not know where to go. They will still pay if they make enough money to cover the services.

**Vice Chairman Broadsword** asked **Mr. Halligan** to address the concerns **Ms. Santillan** raised. **Mr. Halligan** stated that DHW does not currently have a financial eligibility for this program, but would like to focus more on the low-income and needy families who do not have resources to pay for services. If a family needs help finding services and a place to go, they can call DHW and they will be referred to the proper place. **Senator Schmidt** asked if there was a concern about availability of services in rural areas. **Mr. Halligan** replied there has been some public concern, however, DHW still goes out to rural areas and has no plan to stop. **Senator Schmidt** followed up by asking how DHW would handle someone who had court ordered therapy, but was financially able to pay. **Mr. Halligan** answered that if DHW is ordered by the court to provide and pay for services, they will be using a sliding fee scale to determine the parents responsibility for reimbursement. **Senator Bock** asked what DHW is currently doing if someone can afford services. **Vice Chairman Broadsword** noted that this is a temporary rule that has been in effect for a year and is now a pending rule. **Senator Darrington** asked if there had been any feedback from families who felt they were entitled to services before this rule was in effect. **Mr. Halligan** responded no, he does not know of any.

**MOTION:**

**Senator Heider** moved, seconded by **Senator Smyser**, to adopt **Docket No. 16-0737-1001**. The motion carried by **voice-vote**.

**Docket No.  
16-0310-1002**

**Rules Relating to Medicaid Enhanced Plan Benefits (Pending) -Vote Only-:** **David Simnitt**, Project Manager, Division of Medicaid, DHW, stated in 2008, the Department began meeting with stakeholder groups to redesign developmental disabilities (DD) benefits for children. This project is known as the "Children's System Redesign" and is sponsored by the Division of Medicaid and the Division of Family and Community Services. The major restructuring for the Children's System Redesign provides the following: definitions, requirements for children's DD programs, including the new services and provider qualifications. **Mr. Simnitt** provided for the Committee an information packet based on previous questions about this redesign, including charts showing children's disability services provided in Idaho's surrounding states, scenarios of benefits by category, a chart showing the continuum of services in the redesign, real life examples of children's opportunities under the redesign and how they fit into the current Idaho Benefit Package, and evidence based research on the treatment offered. **Mr. Simnitt** requested that the Committee approve **Docket No. 16-0310-1002**.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 2a and 2b,).

**Vice Chairman Broadsword** noted that Idaho is one of the only states in the region that does not have a preset cap on the amount of children who may receive services. **Senator Darrington** asked if all children had access to 22 hours of service now, and according to the level of need, this could be less hours or more hours with the redesign. **Mr. Simnitt** replied yes. **Vice Chairman Broadsword** noted that there has been a lot of concern about the budget system in the redesign and asked if DHW will be willing to work with the children to help them get all the services they need. **Mr. Simnitt** responded yes, they have programs set up to help do this. **Vice Chairman Broadsword** asked what the options are, if an individual needs more services than their budget amount. **Mr. Simnitt** answered that they may always appeal a DHW decision and there are also periodic screenings to determine the needs of the child. **Senator Schmidt** asked if **Mr. Simnitt** could respond to the stakeholders concerns of reduced services. **Mr. Simnitt** stated that

other services are offered on top of the services provided for in the budget system. The budget system allows for a new flexibility that was not there before.

**MOTION:** **Senator Vick** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0310-1002**. The motion carried by **voice-vote** with **Senator Bock** voting "Nay." **Vice Chairman Broadsword** asked DHW to follow up with the Committee and provide a quarterly update showing how the parents and children are doing with the new redesign.

**Docket No. 16-0313-1002** **Rules Relating to Consumer Directed Services (Pending):** **Mr. Simnitt** stated these proposed rules for the redesign of children's developmental disabilities benefits include a Family-Directed Services (FDS) option as part of Home and Community Based Services (HCBS) waivers for children and a related State Plan option. This option is very similar to the Consumer-Directed (CD) option available under the Adult DD Waiver program. Changes are being made to this chapter to incorporate the new FDS option and to update the definitions section. Under this option, families will be able to use their child's individual budget to direct their Medicaid Developmental Disability services. All of the safeguards put in place for the adult population will be maintained. These safeguards ensure that only the dollars that would have been spent on services from traditional Medicaid providers are available to participants and families to instead hire and manage their own staff. In addition, support brokers will be available to help families develop a support and spending plan, a fiscal employer agent will help families manage their budget and pay their staff, and DHW staff will review, approve and monitor participants' support and spending plans. **Mr. Simnitt** requested that the Committee approve **Docket No. 16-0313-1002**.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 3).

**Vice Chairman Broadsword** asked how many hours of training an individual will need to become a broker. **Mr. Simnitt** answered that there are several modules that they need to complete to make sure they understand how to work with people who have developmental disabilities. There is a review of their education and experience, and a module to address DHW requirements.

**TESTIMONY:** **Marilyn Sword**, Executive Director, Idaho Council on Developmental Disabilities, provided written testimony stating her **support** of **Docket No. 16-0313-1002**.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 4).

**MOTION:** **Senator Heider** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 16-0313-1002**. The motion carried by **voice-vote**.

**Docket No.'s. 16-0411-1001 and 16-0321-1001** **Rules Relating to Developmental Disabilities Agencies (Pending):** **Eric Brown**, Program Supervisor, Bureau of Licensing and Certification, Division of Medicaid, DHW, stated these two companion dockets propose to repeal and rewrite the Rules Relating to Developmental Disabilities Agencies. He stated that in **Docket No. 16-0411-1001** the chapter is being repealed and rewritten under **Docket No. 16-0321-1001**. This will replace the existing licensing and certification requirements under IDAPA 16.04.11, "Developmental Disabilities Agencies (DDAs)." This rewritten DDA chapter is needed to provide the necessary certification requirements for providers, and the qualifications necessary to meet those requirements. **Mr. Brown** requested the Committee approve chapter repeal, **Docket No. 16-0411-1001** and chapter rewrite, **Docket No. 16-0321-1001**.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 5a and 5b).

**TESTIMONY:** **Nicole Sherwood**, Program Director, Idaho Association of Developmental Disabilities Agencies, provided written testimony on her **support** of chapter repeal, **Docket No. 16-0411-1001** and chapter rewrite, **Docket No. 16-0321-1001**.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 6a and 6b).

**MOTION:** **Senator Darrington** moved, seconded by **Senator Smyser**, to adopt **Docket No. 16-0411-1001** and **Docket No. 16-0321-1001**. The motion carried by **voice-vote**.

**Docket No.  
16-0310-1003**

**Rules Relating to Medicaid Enhanced Plan Benefits (Pending):** **Sheila Pugatch**, Principal Financial Specialist, Division of Medicaid, DHW, stated rule changes are being made in these rules to implement the legislative intent in H701 and H708 passed by the 2010 legislature. Rule changes for this docket include: 1. Clarification of nursing facility coverage and limitations; 2. Nursing facility inflation freeze; 3. Nursing facility efficiency incentive; 4. Nursing facility special rate payment offset clarification; and 5. Incentive changes for Intermediate Care Facilities for the Mentally Retarded (ICF/ MR). **Ms. Pugatch** requested the Committee approve **Docket No. 16-0310-1003** with the exception of sections 270.03. and 270.07. in order for the Department to do further work on those sections.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 7).

**TESTIMONY:** **Robert VandeMerwe**, Idaho Health Care Association, spoke **in support** of **Docket No. 16-0310-1003**. He thanked the Department for their compromise on this rule.

**Scott Burpee**, CEO, Safe Haven Health Care, provided written testimony of his **opposition** to **Docket No. 16-0310-1003**.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 8).

**Senator Darrington** asked if both sections DHW wanted the Committee to reject held the same language. **Ms. Pugatch** replied yes.

**MOTION:** **Senator Smyser** moved, seconded by **Chairman Lodge**, to adopt **Docket No. 16-0310-1003** with the exception of sections 270.03. and 270.07. The motion carried by **voice-vote**.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**. **Paul Leary**, Deputy Administrator, Division of Medicaid, DHW stated that during **Mr. Simnitt's** presentation of **Docket No. 16-0310-1002**, an exception was requested but was not included in the motion. **Chairman Lodge** asked **Mr. Leary** to specify the section. He responded 663.02(a).

**MOTION:** **Senator Vick** moved, seconded by **Senator Nuxoll**, that the Committee reject Section 663.02(a) of **Docket No. 16-0310-1002** previously approved by the Committee. The motion carried by **voice-vote**.

**Chairman Lodge** stated that the Committee folders contain testimony from Montessori Schools on a rule that will come before the Committee on Monday, February 7th. It is provided so that the Committee may look through it before that meeting. She also noted that Monday should be the last day for rules review and thanked **Vice Chairman Broadsword** for her efficient leadership on the rules review during this session.

**ADJOURNMENT:** There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 3:56 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

**AGENDA**  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Monday, February 07, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>41-0301-1001</b>	Rules Relating to Southwest District Health Department - Repeal IDAPA 41.03.01 because this rule is outdated and is no longer being used by the Department (Pending)	Bruce Krosch
<b>16-0601-1001</b>	Rules Relating to Child and Family Services - Clarifying the language regarding compliance with the requirements of the Multiethnic Placement Act of 1994 (MEPA) as amended by the Interethnic Adoption Provisions (IEP) of 1996 (Pending)	Shirley Alexander
<b>16-0750-1001</b>	Rules Relating to Minimum Standards Governing Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units (Pending)	Gina Westcott
<b>16-0602-1001</b>	Rules Relating to Standards for Child Care Licensing - Provides requirements and clarification for areas related to daycare licensing that include safety and health standards, licensure requirements, suspension, denial, and revocation of licenses (Pending)	Rob Luce
<b>16-0602-1002</b>	Rules Relating to Standards for Child Care Licensing - Requirements for licensing and inspection fees for daycare licensing (Fee)	Rob Luce
<b>16-0602-1003</b>	Rules Relating to Standards for Child Care Licensing - Clarifying requirements for criminal history and background checks in the process of licensing foster homes (Pending)	Rob Luce

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge

Vice Chair Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WG48

Phone: (208) 332-1319

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, February 07, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m., welcomed guests, and passed the gavel to **Vice Chairman Broadsword** to start rules review.

**Docket No. 41-0301-1001** **Rules Relating to Southwest District Health Department (Pending): Bruce Krosch**, Director, Southwest District Health, stated this rulemaking is being done to repeal IDAPA 41.03.01, "Rules of the Southwest District Health Department," because this rule is outdated and is no longer being used by the Department. **Mr. Krosch** requested the Committee approve **Docket No. 41-0301-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 1).

**MOTION:** **Senator Smyser** moved, seconded by **Chairman Lodge**, to approve **Docket No. 41-0301-1001**. The motion carried by **voice-vote**.

**Docket No. 16-0601-1001** **Rules Relating to Child and Family Services (Pending): Shirley Alexander**, Child Welfare Program Manager, Division of Family and Community Services, Department of Health and Welfare (DHW), advised that often times when children come into foster care as a result of being abused or neglected, relatives come forward and request to be licensed as foster parents so they can take care of the children. However, many relatives cannot afford to care for their extended family member without a foster care payment to offset the cost of that care. Recognizing this dilemma, in 2008, Congress passed the federal Fostering Connections to Success and Increasing Adoptions Act, which allowed states to begin using federal funds to offer relatives a guardianship assistance payment. The guardian assistance payment will allow children to leave the foster care system and stay with families. These pending rules propose that Idaho implement this option. She reviewed the eligibility criteria for the proposed federally funded relative guardianship assistance, noting that the guardianship assistance cash payment will not exceed the published foster care rate the child would receive if living in family foster care in Idaho.

**Ms. Alexander** further stated that the Adoption Assistance and Child Welfare Act provides federal subsidies to encourage the adoption of children who have been abused or neglected or whom have special needs. These funds were not intended for all children being adopted. The proposed revision in this rule clarifies the special needs criteria to prevent expansion of adoption subsidies to all adoptions. She stated other rule changes in this docket simply clarify and bring the rules into alignment with current practice, and requested that the Committee adopt **Docket 16-0601-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 2).

**Senator Darrington** asked if guardianship is granted for families who take in children from the child protection services. **Ms. Alexander** answered no. **Vice Chairman Broadsword** asked if children who are adopted still receive guardianship assistance payments. **Ms. Alexander** answered that the children in the guardian assistance program are not adopted. **Vice Chairman Broadsword** asked if the families decided to adopt the children, would they still receive guardian assistance. **Ms. Alexander** answered that when adopting children, you may get access to adoption assistance, but you would not receive both assistance payments. **Senator Bock** asked if a foster child is a ward of the state. **Ms. Alexander** replied no, not until the parental rights are terminated. **Senator Nuxoll** stated that she knows of cases where families want to adopt more children but cannot because of the number of adopted children they already have. She asked **Ms. Alexander** how this would affect those families. **Ms. Alexander** answered that this program only applies to relatives and children 14 years or older. She also stated that a home study is used to determine if those families who want to adopt more children, will be able to. **Senator Nuxoll** followed up by asking if the home study practice fell under **Ms. Alexander's** jurisdiction. She replied only if the children are in foster care.

**MOTION:**

**Senator Darrington** moved, seconded by **Senator Bock**, to adopt **Docket No. 16-0601-1001**. The motion carried by **voice-vote**.

**Docket No.  
16-0750-1001**

**Rules Relating to Minimum Standards Governing Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units (Pending):** **Gina Westcott**, Program Manager, Region 4 Mental Health, Division of Behavioral Health, DWH, stated the Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units rules are being updated to allow for a breath alcohol test to be performed on individuals being brought in for treatment in addition to the blood draw alcohol test. Also, the Tuberculin skin testing requirements for clients is being amended, as many clients may not stay in the unit long enough to have the skin test read. **Ms. Westcott** requested the Committee approve **Docket No. 16-0750-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 3).

**Senator Schmidt** asked how many of these facilities are in the state. **Ms. Westcott** answered there is one; The Allumbaugh House. **Chairman Lodge** asked for more information on the Allumbaugh facility. **Ms. Westcott** stated that the Allumbaugh House has served nearly 1000 individuals since it opened a year ago for detoxification and mental health services. The Allumbaugh House is open 24/7 and contains a sobering station. **Senator Bock** asked what happened to precipitate this rule change. **Ms. Westcott** replied that the facility requested these changes. They felt it would be cost effective to use a breathalyzer rather than laboratory tests. **Vice Chairman Broadsword** asked how the facility reached a .24 blood alcohol level or lower in order to allow admission for detoxification. **Ms. Westcott** answered that this is the level at which they can safely treat people. **Vice Chairman Broadsword** followed up by asking if an individual came in with a blood alcohol level higher than .24, would they have to go to a hospital or another type of facility for services. **Ms. Westcott** responded yes, but it would be at the discretion of the physician.

**MOTION:**

**Chairman Lodge** moved, seconded by **Senator Heider**, to adopt **Docket No. 16-0750-1001**. The motion carried by **voice-vote**.

**Docket No.  
16-0602-1001**

**Rules Relating to Standards for Child Care Licensing (Pending): Rob Luce**, Child Care Licensing Program Manager, Division of Family and Community Services, DHW, stated that this Docket amends day care licensing rules to be consistent with statutory changes and statutory language that was effective January 1, 2010, and reflects the current statutory definitions of Day Care Center, Group Day Care, and Family Day Care. He stated that the rules more fully define the minimum standards an operator must meet and maintain to become licensed as set forth in the statute and reviewed those standards. Mr. Luce requested that the Committee adopt Docket 16-0602-1001.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 4).

**Senator Bock** asked if this pending rule is already in effect and if so, how would you enforce the law if this rule is rejected. **Mr. Luce** answered the rule is in effect. If the rules are rejected, the code is still in effect and more temporary rules would be published in July which would be back in front of the legislature again next session. **Vice Chairman Broadsword** stated that this is a pending rule so it will go into effect if the Committee accepts it. **Senator Darrington** asked if the Montessori Schools provided input when the Day Care Act was amended 2 years ago. **Mr. Luce** answered that he did not recall hearing testimony from the Montessori group at that time. **Senator Darrington** stated that the Montessori group may not understand that their issue with this rule is actually a problem with the law, not the rule and he does not see any reason not to adopt this docket. **Senator Bock** stated that if DHW tried to change the rule to please those who are against the rule, it would go against statute.

**TESTIMONY:**

**Mike Malterre**, Eagle Montessori, Park Center Montessori, and Montessori Academy, spoke **in opposition** of **Docket No. 16-0602-1001**. He stated that he provided each member of the Committee with a packet including testimony from various Montessori employees and families on their opposition to the docket, as well as research and information about Montessori and what the rule means to them. **Mr. Malterre** suggests taking out section 335.01 from the proposed rule.

**Senator Darrington** noted this issue cannot be solved without changing the statute. **Vice Chairman Broadsword** asked if **Mr. Malterre** will actively pursue a statute change in the House if the Committee approves this rule. He replied, yes. **Senator Bock** asked if **Mr. Malterre** was aware that if he is not following the rule as written, he is operating illegally. **Mr. Malterre** replied that he is aware and has informed Montessori about that.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 5).

**David Lehman**, parent of two Montessori students, spoke **in opposition** to **Docket No. 16-0602-1001**. He stated that this rule makes it impossible for Montessori schools to operate. He stated that the rule should pass with the exception of section 335.01.

**Senator Bock** noted that **Mr. Lehman** was aware of the fact that changing the rule would go against statute, and asked how he feels they could do this. **Mr. Lehman** answered that by changing section 335.01 it will create motivation for a statute change. **Senator Bock** stated that this will not change the law.

**Anita Wolberd**, Director, Caspari Montessori Institute, spoke **in opposition** to **Docket No. 16-0602-1001**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 6).

**Senator Nuxoll** asked why these rules are required. **Vice Chairman Broadsword** replied that these rules are being promulgated because of statute that passed in 2009.

**Melissa Bandy**, Project Director, Idaho Association for the Education of Young Children (IAEYC), IdahoSTARS, spoke **in support of Docket No. 16-0602-1001**. She provided a handout on the recommendations for Idaho State Daycare Licensing. **Ms. Bandy** stated that she supports Montessori School's and hopes a resolution can be found.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 7).

**Vice Chairman Broadsword** stated that state code supersedes city ordinances unless the ordinances are more strict. **Senator Bock** stated Boise city ordinances were more strict than state code. **Senator Darrington** stated that he agreed with **Senator Bock** and he would be interested to see if Montessori was against Boise statute as well. **Ms. Bandy** stated that she did not know, but with all the local ordinances around the state it would be interesting to see what Montessori schools were inside and outside the different boundaries. **Senator Bock** suggested that eliminating section 335.01, would keep everyone happy.

**Leslie Scott**, Montessori Teacher, spoke **in opposition of Docket No. 16-0602-1001**. She stated that the law is not clear and causes confusion.

**Vice Chairman Broadsword** asked **Mr. Luce** to address the issues brought up during testimony. **Mr. Luce** stated that he appreciates **Senator Bock's** suggestion to eliminate section 335.01. However, if we do this, the code will still exist. He still requests this docket be passed, and he will commit to working on statutory changes.

**Senator Vick** asked since these rules are in code, is there any harm in not having them as rules. **Mr. Luce** answered that these rules spell out procedures, and they won't change, but the rules make things easier. **Senator Vick** followed up by asking what harm would come from rejecting section 335.01. **Mr. Luce** replied none, it is in code. **Senator Schmidt** stated that the issue Montessori had with these rules was the ratio mentioned, and the age limit, which are still in statute. **Chairman Lodge** asked if **Mr. Luce** had heard about any work being done on this issue. **Mr. Luce** answered that he believes that they are likely to see an RS printed on the Day Care Code from the House. **Senator Darrington** stated that the Montessori Schools need to try to change the code and from what he has heard, the schools are a good education center. **Senator Heider** stated that it would be a disservice to DHW if the Committee does not adopt the rules to conform to code. **Senator Bock** asked what **Mr Luce** would have to do if the rule is rejected and **Vice Chairman Broadsword** asked what it would cost to re-promulgate the rules. He answered that hundreds of hours would have to go into the re-promulgation of these rules and they must enforce the code and write rules that people can understand.

**MOTION:** **Senator Heider** moved, seconded by **Chairman Lodge**, to adopt **Docket No. 16-0602-1001**.

**MOTION:** **Senator Vick** made a substitute motion, seconded by **Senator Nuxoll**, to adopt **Docket No. 16-0602-1001** with the exception of section 335.01.

**VOTE:** A role-call vote was taken on the substitute motion to adopt **Docket No. 16-0602-1001** with the exception of section 335.01. The results are: **Chairman Lodge**, nay; **Vice Chairman Broadsword**, nay; **Senator Darrington**, nay; **Senator Smyser**, nay; **Senator Heider**, nay; **Senator Vick** aye; **Senator Nuxoll** aye; **Senator Bock**, nay; and **Senator Schmidt**, nay. The substitute motion failed with 7 "nays" and 2 "ayes."

A **role-call vote** was taken on the original motion to adopt **Docket No. 16-0602-1001**. The results are: **Chairman Lodge**, aye; **Vice Chairman Broadsword**, aye; **Senator Darrington**, aye; **Senator Smyser**, aye; **Senator Heider**, aye; **Senator Vick**, nay; **Senator Nuxoll**, aye; **Senator Bock**, aye; and **Senator Schmidt**, aye. The original motion carried with 8 "ayes" and 1 "nay."

**Docket No.  
16-0602-1002**

**Rules Relating to Standards for Child Care Licensing (Pending Fee): Mr. Luce** stated section 39-1107, Idaho Code, established a maximum licensing fee for a basic daycare license not to exceed \$175 for daycare centers, and \$100 for group daycare facilities and a family daycare home voluntarily licensed. Criminal history and background checks are the responsibility of the applicant and are based on the actual cost of the check. **Mr. Luce** requested the Committee approve **Docket No. 16-0602-1002**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 8).

**MOTION:**

**Senator Schmidt** moved, seconded by **Senator Darrington**, to adopt **Docket No. 16-0602-1002**. The motion carried by **voice-vote**.

**Docket No.  
16-0602-1003**

**Rules Relating to Standards for Child Care Licensing (Pending): Mr. Luce** stated DHW is amending the proposed rule based on comments received from the Legislative Services Office (LSO). The amendments clarify when an adult member of a foster care household who is age 18 to 21 must have a criminal history and background check. **Mr. Luce** requested the Committee approve **Docket No. 16-0602-1003**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 9).

**MOTION:**

**Senator Heider** moved, seconded by **Senator Bock**, to adopt **Docket No. 16-0602-1003**. The motion carried by **voice-vote**.

**ADJOURNMENT:** In the absence of **Chairman Lodge**, who departed the meeting early to attend another meeting, **Vice Chairman Broadsword** adjourned the meeting at 4:35 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Tuesday, February 08, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
	Approval of Minutes January 26, 2011	Senators Smyser and Schmidt
<b>16-0504-1001</b>	Rules Governing the Idaho Council on Domestic Violence and Victim Assistance Grant Funding (Pending)	Sally Alvarado
<a href="#"><u>RS20213</u></a>	Relating to changing Idaho Code, Section 39-3701, to allow Idahoans age 16, with parental permission, to donate blood.	Senator Shawn Keough, District 1
<a href="#"><u>RS20152</u></a>	Relating to the Idaho Wholesale Drug Distribution Act and exempting the veterinary pharmacy model from the definition of wholesale distribution.	Elizabeth Criner
<a href="#"><u>RS20002</u></a>	Relating to the Commission on Aging - Adding definitions to statute.	Sharon Duncan

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, February 08, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:04 p.m. and welcomed guests. She stated that the Committee would have the last rule review today and passed the gavel to **Vice Chairman Broadsword**.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Nuxoll**, to approve the January 26, 2011 minutes as written. The motion carried by **voice-vote**.

**Docket No. 16-0504-1001** **Rules Governing the Idaho Council on Domestic Violence and Victim Assistance Grant Funding (Pending): Sally Alvarado**, Grants/Contract Officer, Council on Domestic Violence and Victim Assistance, stated The Idaho Council on Domestic Violence is proposing to update the minimum standards document for the Domestic Violence Batterer Treatment Program that is incorporated by reference in this chapter of rules. The minimum standards are being updated to reflect current research on domestic violence treatment, in particular, evidence-based batterer intervention. The rule changes will support, with best practices, an effective response to domestic violence that promotes safety, accountability of offenders, and a positive family environment. In addition, the standard "required sections" of this chapter of rules are being included and updated to conform to the current requirements of the Office of the Administrative Rules Coordinator.

After being asked by the Committee to meet with stakeholders and work out some of the issues with this rule, the decision was made to ask the Committee to reject Section I.B.4 of the Minimum Standards For Domestic Violence Offender Intervention Programs, incorporated by reference in Section 004.03, paragraph b of the rule. **Ms. Alvarado** requested the Committee adopt **Docket No. 16-0504-1001** with the exception of Section I.B.4 of the Minimum Standards For Domestic Violence Offender Intervention Programs, incorporated by reference in Section 004.03, paragraph b of the rule.

**Vice Chairman Broadsword** asked if the House had rejected the entire rule. **Ms. Alvarado** answered yes. **Vice Chairman Broadsword** asked if there was a difference financially or time-wise between rewriting Section I.B.4 of the Minimum Standards For Domestic Violence Offender Intervention Programs and rewriting the entire rule. **Ms. Alvarado** answered that there is no difference, they will have to reprint the entire rule anyway, which costs \$25 a page.

**Senator Bock** asked **Senator Darrington** if the Committee could reject part of the Minimum Standards For Domestic Violence Offender Intervention Programs if it is only referenced in the rule. He answered that they could. **Senator Nuxoll** asked if the House had issues with any section other than Section I.B.4 of the Minimum Standards For Domestic Violence Offender Intervention Programs. **Ms. Alvarado** answered that they had the same issue with that section.

**TESTIMONY:** **Ladessa Foster**, Idaho Coalition Against Sexual and Domestic Violence, Idaho Counseling Association, spoke **in support** of **Docket No. 16-0504-1001** with the exception of section I.B.4 from the Standards.

**MOTION:** **Senator Heider** moved, seconded by **Senator Nuxoll**, to adopt **Docket No. 16-0504-1001** with the exception of Section I.B.4 of the Minimum Standards For Domestic Violence Offender Intervention Programs, incorporated by reference in Section 004.03, paragraph b of the rule. The motion carried by **voice-vote**.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**. **Chairman Lodge** thanked **Vice Chairman Broadsword** for her outstanding leadership with the rules review during this session.

**RS 20213** **Relating to Changing Idaho Code, Section 39-3701, to allow Idahoans age 16, with parental permission, to donate blood:** **Senator Heider** stated the purpose of this legislation is to change statute 39-3701 to allow Idahoans age 16, with parental permission, to donate blood. Allowing citizens to experience involvement in the donation of blood at this age is an important opportunity to become familiar with the procedure and the benefits of a lifetime of committed service to the community through donation. **Senator Heider** requested the Committee send **RS 20213** to print.

**Senator Darrington** asked **Senator Schmidt** if he felt there was any medical reason not to allow a 16 year old to donate blood. He answered that there was good screening used for any age group donating and no, he saw no reason why it would be an issue.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Smyser**, to send **RS 20213** to print. The motion carried by **voice-vote**.

**RS 20152** **Relating to the Idaho Wholesale Drug Distribution Act:** **Elizabeth Criner**, MWI Veterinary Supply, stated in 2007 the Idaho Legislature passed the Idaho Wholesale Drug Distribution Act to limit the opportunity to introduce counterfeit drugs into the U.S. market via the wholesale transfer process. The Board of Pharmacy identified an unintended consequence with the law impacting veterinary pharmacy. This legislation will amend the law to recognize the veterinary pharmacy fulfillment model as a pharmacy regulated process. The bill adds a definition for veterinary pharmacy and exempts the veterinary pharmacy model from the definition of wholesale distribution. Veterinary pharmacy remains regulated, as it is today, under the Idaho Pharmacy Act as a properly licensed pharmacy. The proposed legislation would only cover a properly licensed veterinary pharmacy, using a licensed pharmacist, to provide pharmacy fulfillment on behalf of a veterinarian of record. **Ms. Criner** requested the Committee send **RS 20152** to print.

**Vice Chairman Broadsword** stated that there was not an emergency clause in the RS, and asked if an emergency clause would be necessary to have an immediate fix for this problem. **Ms. Criner** answered that it was not brought up during the conversation with the State Board. **Senator Darrington** suggested that if the Committee and sponsor would prefer to have the bill print with an emergency clause, the Committee should send the RS to print with the addition of an emergency clause. **Ms. Criner** stated that would be good. **Senator Bock** asked who regulates veterinarian pharmacy. **Ms. Criner** answered that veterinarian pharmacy is regulated by the State Board of Pharmacy. **Senator Nuxoll** asked what changes with this RS. **Ms. Criner** explained that veterinarians cannot carry drugs that need a controlled environment when traveling around the countryside and visiting ranches or dairy farms. This proposed legislation will allow the veterinarian to visit the herd, send the prescription to the pharmacy, and the pharmacy will then fill the prescription and get the product out to the end user. The veterinarian would be billed for the prescription and in turn would bill the end user. **Chairman Lodge** asked if this would affect dairy herds, or feed lots, more than the average person. **Ms. Criner** stated that was correct. **Senator Schmidt** asked what the term "legend drugs" meant in the RS. **Ms. Criner** answered that legend drugs is a term used in pharmacy for a regulated pharmaceutical. **Jim Culpepper**, MWI Veterinary Supplies, Registered Pharmacist, stated that legend drugs are by prescription only. **Senator Bock** asked if there was a problem with the fact that both the term prescription drug and the term legend drug were used throughout the RS, and if they meant the same thing, it may just cause conflict. **Ms. Criner** answered that the two terms are used throughout all of Idaho Code, so it causes no conflict. **Senator Bock** stated that he feels for drafting purposes only one term should be used throughout, to make things less confusing.

**MOTION:**

**Vice Chairman Broadsword** moved, seconded by **Senator Smyser**, to send **RS 20152** to print. The motion carried by **voice-vote**.

**RS 20002**

**Relating to the Commission on Aging: Jody Erickson**, Operations Manager, Idaho Commission on Aging, stated the purpose of this legislation is to add definitions to Statute. These definitions include transportation, in-home services, congregate meals, older persons, adult day care, information and assistance service, information and referral, and aging and disability resource center (ADRC). ADRCs offers support and services to the elderly and their families. **Ms. Erickson** requested the Committee send **RS 20002** to print.

**Chairman Lodge** asked what the plans are for long term funding are for ADRC. **Ms. Erickson** answered that they currently have a 3 year grant from 2009-2012, during this time the Idaho Commission on Aging is working together to develop a long range plan for the ADRC. **Chairman Lodge** asked if **Ms. Erickson** would spell out ADRC and it's meaning in the Statement of Purpose and noted the lack of additional funding for the ADRC. **Senator Smyser** asked what will happen after the grant expires if they do not have a long term plan. **Ms. Erickson** replied that the intent is to incorporate the ADRC language into the Older Americans Act. The time line for this to happen is September 2011. **Vice Chairman Broadsword** asked **Ms. Erickson** to address the concerns about the expansion of contracts rather than just clarifying contracts. She replied the requirements allow for the grant award to contract with any entity who can perform core services. They have worked closely with their contract providers, but ADRC functionality is not exclusive to the area agencies on aging. **Vice Chairman Broadsword** asked if any pushback was received from stakeholders. **Ms. Erickson** stated that some area agencies have had issues. **Vice Chairman Broadsword** stated that she needed reassurance that accepting this RS would not add to the State's burden in the future. **Ms. Erickson** stated that there are no current fiscal requests or impact. **Senator Smyser** asked if this would add another layer of coordination on top of what we are already doing.

**Ms. Erickson** answered that the activities outlined are currently taking place. They will partner and collaborate with experts to deliver services.

**MOTION:** **Senator Heider** moved, seconded by **Senator Darrington**, to send **RS 20002** to print. The motion carried by **voice-vote**.

**ADJOURNMENT:** **Chairman Lodge** asked **Ms. Erickson** to meet with Committee members and discuss concerns about future fiscal impact. She introduced **Kim Toryanski**, Director, Office on Aging, and thanked the Committee and guests. There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 3:56 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, February 09, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS20188</u></a>	Relating to Regulation and Licensure of Massage Therapists - To provide a process for licensing massage therapists	Senator Hammond, District 5
<a href="#"><u>RS20109</u></a>	Relating to Early Childhood and Early Intervention Services - Amending Idaho Code for consistency with current terminology, federal requirements, and the Executive Order signed by Governor Otter	Senator Corder, District 22
	Minutes Approval - January 17, 2011	Senators Darrington and Schmidt

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, February 09, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:14 p.m. and welcomed guests. She stated that **RS 20109** would be moved to the top of the agenda to allow **Senator Corder** to present first.

**RS 20109** **Relating To Early Childhood and Early Intervention Services: Senator Corder**, District 22, stated this legislation updates existing code with regard to the Early Childhood Coordinating Council. The Council is funded by federal dollars. These updates make Chapter 1, Title 16, Idaho Code consistent with current terminology, federal requirements and the Executive Order signed by Governor Otter. **Senator Corder** requested the Committee send **RS 20109** to print.

**Vice Chairman Broadsword** asked if there is a state agency that helps fund the Council. **Senator Corder** answered that the Department of Health and Welfare (DHW) helps fund the Council. **Vice Chairman Broadsword** followed up by asking how much money it costs DHW to staff the Council and how many times they meet annually. **Senator Corder** answered the DHW is reimbursed by federal funds so it costs the state nothing and the Council meets 2 or 3 times yearly. **Senator Vick** asked what the reason was for the change on page 2, line 10 from infants and toddlers to young children age birth to 8 years. **Senator Corder** replied that the meaning of the terms have changed over the last 6 years. **Senator Heider** asked if there was a reason for the change from 3% to 20% on page 7, line 15 and 20. **Senator Corder** answered that the Council is smaller now than it initially was, so the percentage required of parents and providers is larger. **Vice Chairman Broadsword** asked if there is something in place to prevent a representative from another organization from being counted as a parent. **Senator Corder** answered no.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Heider**, to send **RS 20109** to print. The motion carried by **voice-vote**.

**RS 20188** **Relating to Regulation and Licensure of Massage Therapists: Senator Hammond**, stated the purpose of this legislation is to add a new Chapter 40 to Idaho Code Title 54 to provide a process for licensing massage therapists. Massage therapy has become an accepted part of conventional medicine to assist patients working to improve their health or recovering from an injury or a medical procedure. Currently, anyone may advertise themselves as a massage therapist regardless of their level of training or lack thereof. Requiring a license of professional and trained massage therapists will insure that citizens seeking this form of therapy will receive appropriate care. **Senator Hammond** requested the Committee send **RS 20188** to print.

**Vice Chairman Broadsword** asked if therapists throughout the state were in favor of this or if there was any push back expected. **Senator Hammond** answered that some push back is expected. **Chairman Lodge** asked if **Senator Hammond** has spoken with the Idaho Medical Association (IMA). He replied that he would if this RS was sent to print. **Senator Darrington** pointed out a drafting error on page 1, line 35. He stated the reference should be to Idaho Code Section 54-4006. He further asked if the people who wanted the legislation passed would be able to document harm done to the public from a lack of licensure for massage therapists. **Senator Hammond** replied that he was told they have proof of harm which they will bring before the Committee should this RS be sent to print. **Senator Vick** asked if there was a reason this licensure is mandatory and could not be optional. **Senator Hammond** answered that he does not see a reason why that should not be discussed if this bill is printed. **Senator Bock** asked what a massage therapist is required to do to become licensed. **Senator Hammond** responded that an individual has to complete training hours, class time, practice hours, and a national test. The test includes both physiology and a hands-on analysis. **Chairman Lodge** asked if the schools teaching these classes are licensed by the State. **Senator Hammond** responded that he does not know. **Senator Nuxoll** asked who requested **Senator Hammond** present this bill. He answered an owner of a school in Post Falls and he received a lot of emails supporting this legislation from around Idaho. **Senator Nuxoll** asked how this will help Massage Therapists. **Senator Hammond** answered that it will help the credibility of the profession of Massage Therapy and help the public get therapy from someone properly trained.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Smyser**, to send **RS 20188** to print. The motion carried by **voice-vote**.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Schmidt**, to approve the January 17, 2011 minutes as written. The motion carried by **voice-vote**.

**ADJOURNMENT:** **Chairman Lodge** stated the last day for an RS to be introduced in the Committee is Monday. There being no further business before the Committee **Chairman Lodge** adjourned the meeting at 3:36 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Thursday, February 10, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS20032</u></a>	Relating to the Idaho State School and Hospital - To create new tools for the Idaho State School and Hospital to more efficiently and appropriately admit and discharge individuals who need services.	Susan Broetje
<a href="#"><u>RS20031</u></a>	Relating to the Idaho State School and Hospital - Proposing a name change to Southwest Idaho Treatment Center.	Susan Broetje
<a href="#"><u>RS19940</u></a>	Relating to Vital Statistics - Dealing with the disclosure of information on certificates and records in the custody of the State Registrar of Vital Statistics.	James Aydelotte
<a href="#"><u>RS20030</u></a>	Relating to Adoption - Removing provisions permitting social investigations by certain individuals, requiring the filing of a report and permitting a filing fee.	Stephanie Miller

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, February 10, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:02 p.m. and welcomed guests.

**RS 20032**

**Relating to the Idaho State School and Hospital (ISSH): Susan Broetje**

Administrative Director, ISSH, Division of Family and Childrens Services, Department of Health and Welfare (DHW), stated the purpose of this legislation is to define DHW duties and responsibilities relative to State School services, clarify admission and discharge criteria and procedures, and define an appeal process for discharge decisions made by the DHW. A mission of the ISSH is to provide treatment and temporary placement for individuals with Developmental Disabilities who cannot be supported in the community. Ideally individuals in crisis are admitted to ISSH until they are stabilized then they return to community placements. During the 2009 Legislative Session H 318 was passed establishing legislative intent for the Department to transition residents of the State School back to the community. As a result of this intent language a review committee developed a plan which calls for transitioning of some individuals out of ISSH who can be supported in the community. Approval of the proposed legislation will provide ISSH and DHW with the ability to move forward more effectively with that plan. **Ms. Broetje** requested the Committee send **RS 20032** to print.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 1).

**Vice Chairman Broadsword** asked if an individual must meet all the criteria starting on page 2, line 48 and continuing to page 3, line 22 of the RS. **Ms. Broetje** answered yes. **Senator Darrington** noted that a statement of legislative intent is common in pieces of legislation, but does not show up in statute once a bill is passed and becomes law. **Senator Heider** asked if the purpose of this RS is to explain how an individual leaves a state home for a community home. **Ms. Broetje** answered yes, it will also clarify admission eligibility. **Senator Heider** followed up by asking if this would increase ISSH population. **Ms. Broetje** answered no, by defining more clearly who is admitted and working aggressively to find community options for people who have met discharge criteria, the population may decrease. **Senator Schmidt** asked what the current population is at ISSH and how many of the patients had guardians who were related compared to those appointed. **Ms. Broetje** answered the majority have guardians who are related and the current population is 55. **Chairman Lodge** asked how ISSH handles situations where a client has been there for many years and, although ISSH feels they are ready for community placement, the client's guardian disagrees. **Ms. Broetje** answered if the guardian does not want community placement ISSH will not push them, but encourage them. **Senator Bock** asked if ISSH admitted both children and adults.

**Ms. Broetje** answered yes. **Senator Bock** asked if ISSH has ever lost track of a patient after they are released. **Ms. Broetje** answered yes it has probably happened, once a client is discharged, Family and Children Services monitors them and they are placed in a licensed care facility. **Senator Heider** asked **Ms. Broetje** to explain the appeal process. She stated that during the appeal process, if an individual decides not to go to a judicial review, the Director has the final decision. However, if they disagree with the Director, it goes to judicial review and the judge's decision is final.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Heider**, to send **RS 20032** to print. The motion carried by **voice-vote**. **Senator Schmidt** suggested Committee members take a tour of ISSH to learn more about the facility.

**RS 20031** **Relating to the Idaho State School and Hospital:** **Ms. Broetje** stated the purpose of this bill is to amend Idaho Code Section 56-235 to change the name of the Idaho State School and Hospital to the Southwest Idaho Treatment Center. ISSH has been neither a school nor a hospital for over 25 years. It is misleading to the public and results in receipt of communication directed to hospitals and/or schools. The fiscal impact will be \$4,000. \$2,500 one-time funds will be used to replace old and deteriorating signage. Another one-time cost of \$1,500 will be used for replacement of business cards. **Ms. Broetje** requested the Committee send **RS 20031** to print.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see Attachment 2).

**Senator Schmidt** asked if the vision for the future of ISSH is to be a treatment center. **Ms. Broetje** answered that they already are a treatment center, and in the future they may expand mental health services. **Chairman Lodge** asked how many acres ISSH sits on. **Ms. Broetje** answered about 660 acres including the golf course and about 150-160 acres without. **Chairman Lodge** stated the Committee would get together and schedule a time to take a tour of ISSH.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Bock**, to send **RS 20031** to print. The motion carried by voice-vote.

**RS 19940** **Relating to Vital Statistics:** **James Aydelotte**, State Registrar, Bureau Chief, Bureau of Vital Records and Health Statistics, DHW, stated the purpose of this legislation is to increase the time it takes before birth certificates and death certificates become public record. Birth certificates will no longer become public record at 100 years, but 125. Death certificates will no longer become public record at 50 years, but 100. **Mr. Aydelotte** requested the Committee send **RS 19940** to print.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see attachment 3).

**Senator Darrington** stated he has seen legislation to reduce the amount of years before birth and death certificates became public record and does not feel this legislation is necessary. In response to the Committee's questions about why increasing the years is important, **Mr. Aydelotte** stated that people are living past 100, making it necessary to increase 100 years to 125. It is a privacy concern for the family when birth and death certificates are released too early and increases the chances of identity theft and insurance fraud.

**MOTION:** **Senator Bock** moved, seconded by **Vice Chairman Broadsword**, to send **RS 19940** to print. The motion carried by **voice-vote** with **Senator Darrington** voting "Nay."

**RS 20030**

**Relating to Adoption: Stephanie Miller**, Adoption Program Specialist, Division of Family and Community Services, DHW, stated the purpose of this bill is to eliminate the ability of individuals to provide adoption services without licensure, liability insurance, and the oversight of an adoption agency. This includes Certified Adoption Professionals. Several years ago, the state needed these individuals to perform these functions but licensed agencies are now able to deliver these services throughout the state. Current statute provides little ability to regulate these services for DHW and adequate oversight would create an increasing workload for decreasing staff. Under this legislation, all private adoption home studies would be completed by adoption agencies that have a high quality assurance standard, are licensed by the Department, are accepted by all other states, and have malpractice insurance. **Ms. Miller** requested the Committee send **RS 20030** to print.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see attachment 4).

**Senator Darrington** asked how many DHW certified adoption agencies there are in the state. **Ms. Miller** answered 4 adoption agencies with multiple locations in the state and 38 certified adoption professionals. In response to the Committee's questions on how DHW is no longer involved in private adoptions, **Ms. Miller** stated that private adoptions are handled by DHW licensed adoption agencies. DHW licenses the agencies, but the agencies handle all the private adoption details. **Senator Vick** asked what the names of the licensed adoption agencies are. **Ms. Miller** replied Casey Family Program, LDS Family Services, A New Beginning Inc., and Path. **Senator Nuxoll** asked what the difference is between a private adoption agency and a certified adoption professional. **Ms. Miller** answered a certified adoption professional is a private practitioner, who may not have supervision or ongoing education. Private adoption agencies provide and require education for adoptive families and supervision of adopted children. **Senator Nuxoll** asked if private charities or churches are listed as certified adoption professionals and if certified adoption professionals are cheaper to use. **Ms. Miller** stated churches or other private organizations are not counted unless licensed, which is required in Idaho. Certified adoption professionals and private adoption agencies cost about the same. **Senator Heider** asked what DHW does with \$29,400 received annually for each person dealing with this adoption process in Idaho. **Ms. Miller** answered that it is mostly staff time, reviewing documents.

**MOTION:** **Senator Darrington** moved, seconded by **Vice Chairman Broadsword**, to send **RS 20030** to print. The motion carried by **voice-vote**.

**ADJOURNMENT:** **Chairman Lodge** stated that the last day to introduce an RS into the Committee would be Monday. There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 3:54 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

**AMENDED #2 AGENDA**  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Monday, February 14, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>RS20021</u></a>	Relating to the authority of the Board of Nursing to report investigative information and to provide provisions relating to the authority of the Executive Director of the Board of Nursing to cooperate with regulatory and law enforcement agencies.	Sandra Evans
<a href="#"><u>RS19931</u></a>	Relating to Immunizations - Amending Section 39-4801, Idaho Code, to revise a document name, to provide for the signing of an immunization record by another health care professional, to provide that the signature on an immunization record shall verify certain information and to make technical corrections.	Dr. Christine Hahn
<a href="#"><u>RS19939</u></a>	Relating to Daycare Facilities - Amending Section 39-1118, Idaho Code, to revise a document name, to provide for the signing of an immunization record, to provide that the signature on an immunization record shall verify certain information and to make a technical correction.	Dr. Christine Hahn
<a href="#"><u>RS20152C1</u></a>	Relating to the Wholesale Drug Distribution Act - Amending Section 54-1752, Idaho Code, to define terms; and declaring an emergency.	Elizabeth Criner
<a href="#"><u>RS20062C2</u></a>	Relating to Child Support - Amending time frame during which an action or proceeding to collect child support arrearages can be commenced.	Kandace Yearsley
<a href="#"><u>RS20327</u></a>	Relating to Behavioral Health Transformation	Senator Joe Stegner, District 7
<a href="#"><u>RS20334</u></a>	Relating to Prevention of Minors' Access to Tobacco and Permitting of Tobacco Product Retailers	Senator Elliot Werk, District 17
<a href="#"><u>S 1058</u></a>	Relating to the Idaho Board of Environmental Quality - Amending Section 39-3627, Idaho Code, to provide that municipalities and community and nonprofit noncommunity public drinking water systems shall agree to provide for full amortization of loans not later than thirty years from the date project construction is completed regarding contracts between the Board and such entities concerning eligible construction projects.	Senator John McGee, District 10

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, February 14, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed guests.

**RS 20021** **Relating to the Authority of the Board of Nursing: Sandra Evans**, Executive Director, Idaho Board of Nursing, stated this legislation revises a provision on sharing investigative information and provides authority for the executive director of the Board of Nursing to cooperate with government regulatory and law enforcement agencies. **Ms. Evans** requested the Committee send **RS 20021** to print.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see attachment 1).

**Senator Schmidt** asked what would be required of the Board of Nursing in cooperating with law enforcement. **Ms. Evans** advised the Board of Nursing intends to share information with other Boards, law enforcement agencies from other states, and local law enforcement agencies.

**MOTION:** **Senator Darrington** moved, seconded by **Vice Chairman Broadsword**, to send **RS 20021** to print. The motion carried by **voice-vote**.

**RS 19931** **Relating to Immunizations: Dr. Christine Hahn**, Division of Public Health, DHW, stated the purpose of this bill is to modernize language within Title 39, Health and Safety, Chapter 48, Idaho Code, Immunization, to conform to current standard medical practice. Currently, Licensed healthcare professionals (i.e. nurse practitioners, physicians assistants, registered nurses, and licensed nurses) are not authorized to sign immunization documents required for school admission; this authority is presently limited to physicians or their representative. Additionally, an immunization record, a document commonly used to demonstrate immunity, may not be accepted as proof of immunization status. Updating this language will make it easier for providers and parents to show proof of immunity for school admission, and allow for the use of electronic health records. **Dr. Hahn** requested the Committee send **RS 19931** to print.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see attachment 2).

**Senator Vick** asked what the issues were that precipitated this change. **Dr. Hahn** answered schools prefer to use electronic registry, and this change will allow use of electronic records. **Senator Heider** asked if a family chooses not to immunize their children based on their religious beliefs, may their children still attend school. **Dr. Hahn** replied yes, and this RS will not change that.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Nuxoll**, to send **RS 19931** to print. The motion carried by **voice-vote**.

**RS 19939** **Relating to Daycare Facilities:** **Dr. Hahn** stated the purpose of this legislation is to modernize language within Title 39, Health and Safety, Chapter 11, Idaho Code, Basic Day Care License, to conform to current standard medical practice. Currently, licensed healthcare professionals (i.e. nurse practitioners, physicians' assistants, registered nurses, and licensed nurses) are not authorized to sign immunization documents required for daycare attendance; this authority is presently limited to physicians and representatives of district health departments. Additionally, an immunization record, a document commonly used to demonstrate immunity, may not be accepted as proof of immunization status. Updating this language will make it easier for providers and parents to show proof of immunity for day care attendance, and allow for the use of electronic health records. **Dr. Hahn** requested the Committee send **RS 19939** to print.

Supporting documents related to this testimony have been archived and can be found in the office of the Committee secretary (see attachment 3).

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, to send **RS 19939** to print. The motion carried by **voice-vote**.

**RS 20152C1** **Relating to the Wholesale Drug Distribution Act:** **Elizabeth Criner**, MWI Veterinary Supply, stated in 2007 the Idaho Legislature passed the Idaho Wholesale Drug Distribution Act to limit the opportunity to introduce counterfeit drugs into the U.S. market via the wholesale transfer process. The Board of Pharmacy identified an unintended consequence with the law impacting veterinary pharmacy. This Legislation will amend the law to recognize the veterinary pharmacy fulfillment model as a pharmacy regulated process. The bill adds a definition for veterinary pharmacy, exempts the veterinary pharmacy model from the definition of wholesale distribution and declares an emergency. Veterinary pharmacy remains regulated, as it is today, under the Idaho Pharmacy Act as a properly licensed pharmacy. The proposed legislation would only cover a properly licensed veterinary pharmacy, using a licensed pharmacist, to provide pharmacy fulfillment on behalf of a veterinarian of record. **Ms. Criner** requested the Committee send **RS 20152C1** to print.

**MOTION:** **Senator Bock** moved, seconded by **Vice Chairman Broadsword**, to send **RS 20152C1** to print. The motion carried by **voice-vote**.

**RS 20062C2** **Relating to Child Support:** **Kandace Yearsley**, Chief, Bureau of Child Support Operations, Idaho Department of Health and Welfare (DHW), stated prior to this year, DHW Child Support Program, was operating under the interpretation that child support arrears could be collected indefinitely, provided collection activities have been commenced prior to the running of the statute of limitations. A recent court decision has placed continued reliance on that interpretation in question. Under the court's interpretation, Idaho would have the shortest period of time in which child support arrears are enforceable in the country. Furthermore, if the courts interpretation were applied, Idaho Child Support Services would have to write off more than \$63,000 in unpaid child support arrears, approximately \$20,000,000 of which is owed to the State. Finally, the Child Support Program would be at risk for claims of reimbursement of approximately \$11,500,000 for amounts collected in the last three years on cases where the collection window had expired. **Ms. Yearsley** requested the Committee send **RS 20062C2** to print.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send **RS 20062C2** to print. The motion carried by **voice-vote**.

**RS 20327**

**Relating to Behavioral Health Transformation: Senator Joe Stegner**, District 7, stated this legislation establishes in Idaho statute the Office of Behavioral Health Transformations as one of the preliminary actions recommended by the Governor's Behavioral Health Transformation Work Group in their final report, A Plan for the Transformation of Idaho's Behavioral Health System, dated October 28, 2010. Additionally, this legislation codifies the actions of the Governor's Executive Order No. 2011-01, dated January 27, 2011, which creates the Behavioral Health Interagency Cooperative. The legislation also repeals the Interagency Committee on Substance Abuse Prevention and Treatments, which was due to sunset on July 1, 2011, and assigns similar duties to the newly created Cooperative. Also, the legislation replaces the "Office of Drug Policy," that is an additional transformation recommendation, with the Office of Behavioral Health Transformation and creates the administrator position of that office. All of these actions are included in the recommendations of the Governor's Behavioral Health Transformation Work Group that was established by Executive Orders 2009-04 and 2010-01 and was tasked to create a plan for a "coordinated, efficient state behavioral health infrastructure with clear responsibilities, leadership authority, and action" for the State of Idaho. **Senator Stegner** requested the Committee send **RS 20327** to print.

**Vice Chairman Broadsword** asked how this will be funded. **Senator Stegner** answered the Governor's office has requested \$40,700 from dedicated funds to expand the mission of the Office of Drug Policy to include mental health. **Vice Chairman Broadsword** asked **Senator Stegner** to bring the Committee information on how the Council members will be reimbursed.

**MOTION:**

**Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send **RS 20327** to print. The motion carried by **voice-vote**.

**RS 20334**

**Relating to Prevention of Minor's Access to Tobacco and Permitting of Tobacco Product Retailers: Senator Elliot Werk**, District 17, stated Idaho does not currently charge a fee for the permitting and inspection of tobacco dealers. This results in annual expenditures of Millennium Funds (\$94,000) and taxpayer dollars (approximately \$200,000). To end the taxpayer subsidy of tobacco dealers this legislation requires the DHW to promulgate rules to recoup the costs of annual permitting and inspection of tobacco dealers. **Senator Werk** requested the Committee send **RS 20334** to print.

**Senator Nuxoll** asked if the changes are from general funds to dedicated funds. **Senator Werk** answered currently the general fund pays for the inspections, this RS will require the DHW to create rules to charge the retailer the fee of inspection. **Senator Nuxoll** asked if retailers were not currently charged a fee. **Senator Werk** answered yes. **Senator Nuxoll** asked why these changes are happening. **Senator Werk** replied it is a common practice for a retailer to pay a fee.

**MOTION:**

**Senator Bock** moved, seconded by **Senator Schmidt**, to send **RS 20334** to print. The motion carried by **voice-vote**. **Vice Chairman Broadsword** stated that she would vote to send this RS to print, but has yet to make the decision on how to vote.

**S 1058**

**Relating to the Idaho Board of Environmental Quality: Senator John McGee,** District 10 stated the Department of Environmental Quality (DEQ) manages the Clean Water Act State Revolving Loan Program and the Safe Drinking Water Act State Revolving Loan Program. Pursuant to Chapter 79, Title 39, Idaho Code, the Drinking Water Loan Program is able to offer thirty (30) year loan terms. However, as provided in Chapter 36, Title 39, Idaho Code, the Clean Water Act Loan program is only able to offer loan terms of twenty (20) years. Municipalities and communities infrastructure upgrades would benefit by having the ability to negotiate loan terms allowing amortization of up to thirty (30) years with lower annual payments and the associated lower user rates benefiting city infrastructure planning. This legislation will change the wastewater loan terms, as provided in the Clean Water Act Loan program, from twenty (20) years to thirty (30) years. This legislation may convey a benefit to the Cities of Greenleaf and Ammon, and further benefits the citizens of other municipalities and communities seeking longer loan terms. **Senator McGee** requested the Committee send **S 1058** to the floor with a do pass recommendation.

**Chairman Lodge** asked if there was an emergency clause included. **Senator McGee** advised that was intended but was omitted from the legislation. After consulting with **Barry Burnell**, Water Quality Division Administrator, DEQ, he advised that not having an emergency clause will not adversely affect the cities involved. **Senator Bock** asked where the funding for these projects comes from and will there be prepayment penalties on the new loans. **Senator McGee** stated the funding will be federal and deferred to **Barry Burnell** to answer the questions on prepayment penalties.

**Mr. Burnell** responded that there are no prepayment penalties. **Senator Darrington** asked if they have moved from a grant program to a revolving loan account program. **Mr. Burnell** answered yes, several years back. **Senator Darrington** asked if this will effect the revolving portion of the fund. **Mr. Burnell** answered no, it will not jeopardize the fund. **Senator Heider** asked if this bill can become retroactive for cities and citizens who owe money. **Senator McGee** answered no. **Senator Bock** suggested the possibility of refinancing. **Mr. Burnell** answered that they are limited in changing the terms of the loans, and currently have no authority to refinance. **Senator Schmidt** asked what the lifetime of the water system tends to be. **Mr. Burnell** answered the lifetime of waste water collection systems can approach 50-75 years. Treatment Technology can change rapidly but actual physical structures are designed to last well over 30 years. **Vice Chairman Broadsword** asked if longer payback periods affect the revolving loan fund or prevent communities from receiving a loan. **Senator McGee** answered no, it will not affect the fund. **Senator Bock** asked if lower payments will affect the fund. **Mr. Burnell** answered that it will not seriously impact the fund in a negative way. **Vice Chairman Broadsword** asked how long the current waiting list is. **Mr. Burnell** replied there is usually 10-15 communities waiting for a loan. **Senator Heider** asked if this applied to both drinking water and waste water systems. **Mr. Burnell** responded yes.

**MOTION:**

**Senator Darrington** moved, seconded by **Senator Smyser**, to send **S 1058** to the floor with a do pass recommendation. The motion carried by **voice-vote**.

**ADJOURNMENT: Chairman Lodge** noted that there would be no Committee meeting tomorrow, wished the Committee members and guests a Happy Valentines Day, and adjourned the meeting at 3:50 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, February 16, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>S 1021</u></a>	Relating to the Unlicensed Practice of Medicine and the EMS System - Amending Idaho Code to clarify an exception as it pertains to the outdoor emergency care credential and standard of training provided by the National Ski Patrol System, Inc.	Senator Bart Davis, District 33
<b>Presentation</b>	U.S. Ecology - Overview	Simon Bell, Terry Geis, Jim Baumgardner
<a href="#"><u>H 93</u></a>	Relating to Hazardous Waste Management - Revising definition of "Restricted Hazardous Waste"	Roy Eiguren
<b>Presentation</b>	Idaho Criminal Justice Commission - Overview and Update	Brent Reinke, Chairman

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, February 16, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed guests.

**S1021** **Relating to the Unlicensed Practice of Medicine and the EMS System: Senator Bart Davis**, District 33, stated this legislation confirms and clarifies a long standing presumed exception for those individuals who have received training in first aid care through the National Ski Patrol System, Inc. (NSPS). Such individuals may include ski patrollers, or other individuals who have taken a course in outdoor emergency care through the NSPS for use in outdoor recreational activities. Although such activities are typically geared towards winter sports, individuals holding the Outdoor Emergency Care (OEC) credential may perform first aid services at times other than when engaged in winter sports activities. **Senator Davis** requested the Committee send **S1021** to the floor with a do pass recommendation.

**TESTIMONY:** **Scott Eskleson**, Legal Advisor for the Intermountain Division of the Ski Patrol and resident of Idaho Falls, Idaho, spoke **in support** of **S1021**. He stated that this is the system the Ski Patrol has been using for many years, and there is no reason to change it. This legislation will not change anything. Statute already exists to exempt the Ski Patrol, this is just adding another layer of protection.

**Senator Darrington** asked who credentials the OEC training program. **Mr. Eskleson** answered it is done through the NSPS. **Senator Darrington** asked if OEC classes are given by private individuals or groups. **Mr. Eskleson** answered yes to both. In response to questions from the Committee, **Mr. Eskleson** stated all Ski Patrollers must be OEC certified and if they are not OEC certified they must be certified in emergency care in another way, such as physicians and EMTs. **Senator Schmidt** asked if there is a database to verify if an individual is OEC certified. **Mr. Eskleson** replied yes.

**Dr. Murry Sturkie**, Emergency Physician, Chairman, Idaho State EMS/Physician Commission, spoke **in opposition** to **S1021**. He stated **S1021** intrudes on the Medical Practice Act and will lead to the unregulated care of sick and injured by parties other than the National Ski Patrol in Idaho.

Supporting documents related to this testimony have been archived and may be accessed in the office of the Committee secretary. (see attachment 1).

**Senator Bock** asked why this legislation should not be approved if it just solidifies current practice and law. **Dr. Sturkie** answered when the current law was written the National Ski Patrol practiced very basic first aid, they have increased their scope of services and now offer much more and it needs to be regulated. **Senator Bock** asked how the National Ski Patrol is violating law or code. **Dr. Sturkie** replied the Medical Practice Act requires people who provide medical care to be licensed, the National Ski Patrol is offering so much treatment now, they are actually practicing medicine. **Senator Bock** asked what **Dr. Sturkie** felt rejecting the bill would accomplish. He responded that rejecting this bill would allow the process of regulating the Ski Patrollers to move forward, passing it may protect them. **Senator Schmidt** asked if the Board of Nurses, or the midwives were regulated. **Dr. Sturkie** answered the Board of Nurses regulates the nurses and that Nurse Midwives regulate Midwives.

**Senator Darrington** asked if **Dr. Sturkie** would prefer to amend this legislation or allow the Ski Patrol to meet certifications other than what they are currently doing. He responded what they want is to make sure the Ski Patrol is properly regulated if they are practicing medicine. **Senator Darrington** asked if pushing more regulations on the Ski Patrol would limit the amount of individuals volunteering. **Dr. Sturkie** replied if they went through the preferred licensure, it would only require a background check and not add any extra courses, so no. **Senator Heider** noted that he was a National Ski Patrolmen and an EMT. A Ski Patrolmen performs first aid until a licensed physician can be accessed. **Senator Vick** asked if **Dr. Sturkie** felt the Ski Patrol needs more supervision because of the extra training they are receiving. He replied yes. **Senator Vick** asked if there were examples of the harm caused by lack of supervision. **Dr. Sturkie** stated that he could only provide word of mouth stories where a Ski Patroller caused harm not by administering basic first aid, but making medical decisions he had no authority to make.

**Tim White**, Executive Director, National Ski Patrol, spoke **in support** of **S1021**. He stated the current credentials allow the National Ski Patrol to cross state lines, something they don't want to lose. The National Ski Patrol does a lot of good and should not be inhibited by licensure.

**Joan Weddington**, PhD, RN, Executive Director, Idaho Board of Medicine, spoke **in opposition** of **S1021**. She stated this legislation is misplaced in the Medical Practice Act and the Board believes allowing an exception for providers who are not physicians will allow for other non-physicians interests to amend the Medical Practice Act.

Supporting documents related to this testimony have been archived and may be accessed in the office of the Committee secretary. (see attachment 2).

**Phil Edholm**, Owner, Look-out Pass Ski Area, spoke **in support** of **S1021**. He stated that the Boy Scouts of America would never be required to be licensed even though they practice basic first aid and go through training similar to OEC training. The line must be drawn somewhere. The National Ski Patrol is a National Treasure and he could not run his ski area without their services.

**Vice Chairman Broadsword** asked **Mr. Edholm** if volunteers were charged a fee for a license, would he lose members. He answered that he feels at least half the patrol would resign.

**Dia Gainor**, Chief, Emergency Medical Services, Bureau of the Division of Public Health, Department of Health and Welfare (DHW), spoke **in opposition** to **S1021**. She provided the Committee with a handout that detailed the amount of volunteer EMS personnel in comparison to career EMS, proof that the OEC curriculum exceeds that of the Emergency Medical Responder, as well as other charts and information. She stated the language in the legislation is a problem and the National Ski Patrol needs supervision to protect the public.

Supporting documents related to this testimony have been archived and may be accessed in the office of the Committee secretary. (see attachment 3a and 3b).

**Senator Bock** asked what **Dr. Gainor** hopes to gain by the rejection of this bill. She replied the language in the bill is improper and if the bill is held, a system of regulation can be created for the National Ski Patrol. **Senator Darrington** asked if **Dr. Gainor** would require the Ski Patrollers to be licensed if it upsets Idaho Code. She replied that improvements need to be made to the EMS act and legislation needs to be enacted to fix these issues. **Senator Heider** noted in Idaho Code, individuals are already exempt to practice medicine without a license, and this legislation will just add Ski Patrollers to that list.

**Bill Arsenault**, Wildland Firefighter and Paramedic, spoke **in opposition** to **S1021**. He stated that he is a licensed paramedic and has done volunteer work for certifications. The National Ski Patrol practices medicine and therefore needs supervision.

**Mike Shirley**, Recreation Manager, Bogus Basin, spoke **in support** of **S1021**. He stated that running Bogus Basin Ski Area would be impossible without the Ski Patrol. They are regulated by a nationally sanctioned body, and local Ski Patrol management.

**Senator Nuxoll** stated that she has had personal experience with the National Ski Patrol and they did a good job. She asked if we are helping the Skiers or making it harder for them to enjoy the recreation.

**David Kim**, Idaho Chapter, American Colony of Mercy Physicians, spoke **in opposition** to **S1021**. He stated the public must be protected.

**Senator Darrington** noted if the EMT attempted to force licensure on the National Ski Patrol with legislation, the legislation would not get far. **Senator Bock** asked if there has been any pressure from state agencies to make Ski Patrol members become licensed. **Dr. Kim** deferred to **Dr. Gainor** who stated there has been no pressure from DHW.

**Richard Radnovich**, DO, spoke **in opposition** to **S1021**. He stated that anyone may obtain an OEC card and this bill will allow anyone who holds an OEC card to practice medicine anywhere and be exempt from supervision.

**Joe LaGue**, Bogus Basin Ski Patrol, spoke **in support** of **S1021**. He invited the Committee members to ski with a Ski Patroller to learn more about what they do.

**Vice Chairman Broadsword** asked if the Ski Patrol provided services other than first aid. **Mr. LaGue** replied yes. **Senator Schmidt** noted that there has not been any pressure from state agencies to license the Ski Patrol and asked why. **Mr. LaGue** felt it necessary to pass legislation to protect them from supervision. He deferred to **Mr. Eskleson** who stated the DHW discussed last spring that criminal prosecution will result if the Ski Patrol continues to practice medicine.

**Senator Davis** stood to address the concerns raised during testimony. He stated the ski patrol does good work and should continue to do what they have been doing for years. **Vice Chairman Broadsword** asked if **Senator Davis** would address the concern that this bill will alter the Medical Practice Act and would be better placed somewhere else in statute. He answered there were many places in statute the language in this bill could be placed and there will always be push back on where it should be. **Senator Darrington** asked **Dr. Gainor** if she agreed that legislation to license the National Ski Patrol would not be passed. She replied yes. **Senator Bock** asked if this legislation would protect individuals not just a part of the Ski Patrol. **Mr. Eskleson** answered that this exemption would never apply to someone who received contribution for practicing medicine.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Heider**, to send **S1021** to the floor with a do pass recommendation.

**MOTION:** **Senator Bock** made a substitute motion, seconded by **Senator Schmidt**, to send **S1021** to the 14th order for amendment. **Senator Smyser** disclosed pursuant to Rule 39H of the Idaho State Senate Rules, she may have a conflict of interest but still intends to vote on **S1021**. **Vice Chairman Broadsword** and **Senator Heider** spoke in favor of the original motion. **Senator Bock** and **Senator Schmidt** spoke in favor of the substitute motion.

**VOTE:** A **role-call vote** was taken on the substitute motion to send **S1021** to the 14th order for amendment. The results of the vote are: **Chairman Lodge**, nay; **Vice Chairman Broadsword**, nay; **Senator Darrington**, nay; **Senator Smyser**, nay; **Senator Heider**, nay; **Senator Vick**, nay; **Senator Nuxoll**, nay; **Senator Bock**, aye; and **Senator Schmidt**, aye. The substitute motion failed with 2 "ayes" and 7 "nays."

A **role-call vote** was taken on the original motion to send **S1021** to the floor with a do pass recommendation. The results are: **Chairman Lodge**, aye; **Vice Chairman Broadsword**, aye; **Senator Darrington**, aye; **Senator Smyser**, aye; **Senator Heider**, aye; **Senator Vick**, aye; **Senator Nuxoll** aye; **Senator Bock** nay; and **Senator Schmidt**, nay. The original motion passed with 7 "ayes" and 2 "nays."

**H0093** **Relating to Hazardous Waste Management: Roy Eiguren**, Attorney representing U.S. Ecology, stated this amendment to the Idaho Hazardous Waste Act would clarify that the one commercial hazardous waste disposal facility located in Idaho (US Ecology's Grandview Facility) may continue accepting low-activity radium contamination in soil from military bases and other government and commercial clean-up projects, as it has for over 10 years. While currently unregulated by the US Nuclear Regulatory Commission (US NRC), the NRC may potentially define this material as 'byproduct material'. Such designation would prohibit disposal of this material at the Grandview Hazardous waste disposal facility under the current definition of "restricted hazardous waste" found at 39 Idaho Code 4403 (17). The proposed amendment would specifically clarify that the facility could continue taking this waste, consistent with the Federal Energy Policy Act of 2005 (EPAAct), which states that commercial hazardous waste facilities are authorized to continue accepting such waste. Furthermore, the proposed amendment would not expand the types or amount of waste that the Grandview facility can accept. **Mr. Eiguren** requested the Committee send **H0093** to the floor with a do pass recommendation.

**Senator Nuxoll** asked **Mr. Eiguren** to clarify exactly what this bill will do. He stated the bill will change the definition of by-product material. If the federal government decides to regulate low-activity radium contamination as by-product, Idaho will still be allowed to dispose of it at proper facilities.

**MOTION:** **Senator Smyser** moved, seconded by **Vice Chairman Broadword**, to send **H0093** to the floor with do pass recommendation. The motion carried by **voice-vote**.

**ADJOURNMENT:** **Chairman Lodge** stated due to a lack of time, both the U.S. Ecology Overview presentation and the Idaho Criminal Justice Commission Overview and Update presentation scheduled on the agenda would be rescheduled. There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 5:18 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Thursday, February 17, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Hearing Only</b>	<b>Darrell Kerby</b> of Bonners Ferry, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.	
<a href="#"><u>S 1080</u></a>	Relating to Early Childhood and Early Intervention Services - Amending Idaho Code for consistency with current terminology, federal requirements and the Executive Order signed by Governor Otter.	Senator Corder, District 22
<a href="#"><u>S 1083</u></a>	Relating to Vital Statistics - Revising the time frames after which certain records become public records.	James Aydelotte
<a href="#"><u>S 1082</u></a>	Relating to the Idaho State School and Hospital - Amending Idaho Code to change the name of the Idaho State School and Hospital to the Southwest Idaho Treatment Center.	Susan Broetje
<a href="#"><u>S 1081</u></a>	Relating to the Idaho State School and Hospital - To create tools to more efficiently and appropriately admit and discharge individuals who need services.	Susan Broetje
<a href="#"><u>S 1049</u></a>	Relating to Public Assistance Law - To update obsolete references in the existing law from Food Stamps, which no longer exist, to Food Stamp Benefits issued in any form, including through Electronic Benefit Transaction cards.	Steve Bellomy
<b>Minutes Approval</b>	Approval of Minutes of the January 27, 2011 meeting.	Senators Broadsword and Bock
<b>Minutes Approval</b>	Approval of Minutes of the January 31, 2011 meeting.	Senators Nuxoll and Schmidt
<b>Minutes Approval</b>	Approval of Minutes of the February 1, 2011 meeting.	Senators Heider and Bock

**Minutes  
Approval**

Approval of Minutes of the February 2, 2011  
meeting

Senators Vick and  
Schmidt

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, February 17, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:04 p.m. and welcomed guests. She introduced **T.J. Platt**, Houston, Idaho, who will be the page for the second half of the session.

**GUBERNATORIAL APPOINTMENT TESTIMONY:** **Darrel Kerby**, of Bonners Ferry, ID, was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015. He served as Councilman and Mayor of Bonners Ferry, ID. He provided the Committee with a short biography of his professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 1).

**Senator Darrington** asked if **Mr. Kerby** had read the duties and responsibilities of the Board of Health and Welfare in the Idaho Code. He replied yes. **Senator Darrington** noted that by doing so **Mr. Kerby** shows preparation for the job ahead. **Senator Smyser** asked what **Mr. Kerby** felt his biggest contribution to the Board would be. He replied, his background as Mayor of Bonners Ferry and his understanding of the process and procedures of the Board. **Senator Bock** requested **Mr. Kerby** address his work on the federally qualified health clinics and how it has benefited the community of Bonners Ferry. **Mr. Kerby** stated 9 years ago they had a start up grant for a federally qualified health center and it currently has had around 7,000 to 9,000 patients. It has been beneficial to the health and economy of the community. **Senator Heider** asked if **Mr. Kerby** planned to learn more about certified family homes. He responded that he has served on the Board and toured family homes and the State Hospital. He stated it is a constant learning curve.

**Vice Chairman Broadsword** asked **Mr. Kerby** if he felt the Board would have some input to help the Committee on decisions regarding the budget. He replied that the Board and the Committee have different budget challenges to face so as of now, they have no input. **Senator Darrington** asked what advice **Mr. Kerby** had about balancing the budget without raising taxes. He replied that the number of people applying for assistance has grown rapidly over the last few years and this could not have come at a worse time in terms of budgeting for those people who need assistance. He further stated that he has a great deal of confidence in the professionals at the Department of Health and Welfare as they are truly focused on the best use of the taxpayer dollar and have been for a number of years. **Senator Darrington** noted that he takes comfort in knowing **Mr. Kerby** has an understanding of the state's problems.

**Chairman Lodge** thanked **Mr. Kerby** for appearing before the Committee and advised him that a vote on his appointment would be taken next week.

**S1080**

**Relating to Early Childhood and Early Intervention Services: Senator Tim Corder** stated this legislation updates existing code with regard to the Early Childhood Coordinating Council (EC3). The Council is funded by federal dollars. These updates make Chapter 1, Title 16, Idaho Code consistent with current terminology, federal requirements and the Executive Order signed by Governor Otter. The Council is tasked with assuring that federal dollars are spent well by reducing redundancy of programs. It also brings the stakeholders together in one place to make sure there are no gaps in services. **Senator Corder** requested the Committee send **S1080** to the floor with a do pass recommendation.

**Vice Chairman Broadsword** asked **Senator Corder** if he could address a discrepancy from page 2, line 10 which states young children age birth to eight (8) years and page 7, line 19 which states a young child with special needs who is age six (6) years or younger. He responded that these references are to different categories of children. One refers to an update of terminology and the other refers to the group of parents for children of a certain age. **Senator Nuxoll** asked if any state funds are involved with this Council. **Senator Corder** answered that federal funds are used, as well as private funds. No state general funds are used for this Council. **Vice Chairman Broadsword** stated when funds come into the state from private sources, they fall into the category of dedicated funds and go through an appropriation process in the Finance Committee. **Senator Vick** inquired as to how the statewide early childhood strategic plan, referred to on page 2, line 27, would be used. **Senator Corder** advised that this plan brings together all the different groups and goals involved so that redundancy among the groups can be eliminated and resources can be used wisely. **Senator Vick** further asked why the term "psychosocial development" was replaced by "social and emotional development." **Senator Corder** advised that although the terms are different, the meaning is the same. With regards to the dedicated fund, **Senator Schmidt** asked for an explanation on the use and prohibited use of the funds. **Senator Corder** stated that when someone contributes to the fund, they want to be able to assure them that the funds will be used for the intended purpose.

**TESTIMONY:**

**Lorraine Clayton**, Director, Early Childhood Coordinating Council, Department of Health and Welfare (DHW), spoke **in support** of **S1080**. She stated this is budget neutral and will not change eligibility guidelines. It is only an update.

**Amanda Holloway**, Idaho Council on Developmental Disabilities, Council Representative on EC3, spoke **in support** of **S1080**. She stated the Council ensures ongoing discussion.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 2).

**MOTION:**

**Vice Chairman Broadsword** moved, seconded by **Senator Schmidt**, to send **S1080** to the floor with a do pass recommendation. The motion carried by **voice-vote**.

**S1083**

**Relating to Vital Statistics: James Aydelotte**, State Registrar, Bureau Chief, Bureau of Idaho Records and Health Statistics, DHW, stated Section 39-270 deals with the disclosure of information on certificates and records in the custody of the State Registrar of Vital Statistics. Currently under subsection "e", birth records that are older than one hundred (100) years after the date of birth become public records. Records of death, stillbirth, marriage, and divorce become public records fifty (50) years after the date of the event. Because birth records can be used to create false identities to perpetuate fraud and crime and because people are living longer, and death records can be used to fraudulently claim benefits, the time frames for records of births, stillbirths, and deaths to become public records are being raised. Individuals otherwise entitled by law and administrative rule will still be able to obtain copies as they need. The time before birth records become public is changing to 125 years. The time before death records become public is changing to 100 years. **Mr. Aydelotte** requested the Committee send **S1083** to the floor with a do pass recommendation.

**Senator Smyser** asked if there have been a lot of problems with fraud. **Mr. Aydelotte** answered that although he does not currently have statistics, it has happened enough to cause concern. **Senator Smyser** asked if **Mr. Aydelotte** knew how many people in Idaho were older than 100 years. He replied no. **Chairman Lodge** mentioned a six year old boy shown on the news who had passed away a few years ago. His identity was stolen and used for several years. **Mr. Aydelotte** stated that death records currently become public record after 50 years, so anyone appearing around the right age, in this case 56, could steal this identity. **Senator Nuxoll** asked if this legislation would help reduce voter fraud where individuals used the identity of deceased persons to place a vote. **Mr. Aydelotte** answered yes, if the identity was obtained because the records had become public. **Senator Schmidt** asked how it costs the state nothing to keep these records longer. **Mr. Aydelotte** explained that the Bureau will keep the records forever no matter when they become public. **Senator Darrington** asked if the difference between 100 and 125 years would really help reduce fraud. **Mr. Aydelotte** responded that fraud is not the only issue. Privacy for the individual and family are also reasons for this legislation. **Senator Darrington** noted that in the future this information may be available on the internet and privacy will be harder to maintain. **Vice Chairman Broadsword** asked if there is opposition to this bill. **Mr. Aydelotte** replied yes, researchers want more access to these records. **Senator Darrington** stated that he has had discussions with historical records researchers who wanted more access, but the issue of fraud was never brought up. **Vice Chairman Broadsword** asked if distant family members will still have access to records. **Mr. Aydelotte** answered that any person mentioned in the record, a spouse, children, parents, grandparents, grandchildren, siblings, and guardians all have access.

**MOTION:**

**Senator Vick** moved, seconded by **Senator Nuxoll**, to send **S1083** to the floor with a do pass recommendation. The motion carried by **voice-vote**.

**S1082**

**Relating to the Idaho State School and Hospital (ISSH): Susan Broetje**, Administrative Director, Idaho State School and Hospital (ISSH) stated the purpose of this bill is to amend Idaho Code Sections 56-235 to change the name of the Idaho State School and Hospital to the Southwest Idaho Treatment Center. The state's institution serving the developmentally disabled has been neither a school nor a hospital for over 25 years. It is misleading to the public and results in receipt of communication directed to hospitals and/or schools. The name provides a misleading perception to the public about the intent of the services provided. **Ms. Broetje** requested the Committee send **S1082** to the floor with a do pass recommendation.

- MOTION:** **Senator Smyser** moved, seconded by **Senator Heider**, to send **S1082** to the floor with a do pass recommendation. The motion carried by **voice-vote**.
- S1081** **Relating to the Idaho State School and Hospital:** **Ms. Broetje** stated the purpose of this bill is to create new tools for the ISSH to more efficiently and appropriately admit and discharge individuals who need services. A mission of ISSH is to provide treatment and temporary placement for individuals with Developmental Disabilities who cannot be supported in the community. Ideally individuals in crisis are admitted to ISSH until they are stabilized then they return to community placements. Currently the openness of federal regulations and the ISSH statute allow individuals to remain at ISSH when they could be supported in the community. Utilization of the small number of beds at ISSH for this population creates a bottleneck for individuals in the community who need ISSH-level services but cannot access them. These Individuals are then placed in community settings that can't meet their needs. In the 2009 Legislative Session, HB 318 was passed. Section 7 of the bill directs the department to create a plan for transitioning current residents of the Idaho State School and Hospital into services in the community or other private institutional settings. The resulting plan calls for a transitioning of some individuals out of ISSH who can be supported in the community. Changes to the statute will allow implementation of parts of the plan and allow ISSH to become much more efficient at supporting individuals in crisis who cannot be served well in the community. **Ms. Broetje** requested the Committee send **S1081** to the floor with a do pass recommendation.
- Senator Darrington** asked if this bill was passed, would the Department have to come back with more legislation in order to bring all the references used in Idaho Code up to date. **Ms. Broetje** answered she believes that in the proposed legislation all the references in the current code are included but she isn't sure. **Senator Vick** asked if the Department is always working on moving people out of ISSH and no one is considered a permanent resident. **Ms. Broetje** responded yes. **Senator Schmidt** asked what the current census of the hospital is. **Ms Broetje** responded 54 residents, with 3 individuals having a confirmed discharge date. **Chairman Lodge** asked about the age group for patients in ISSH. **Ms. Broetje** responded it is a broad range from late teens to individuals in their 60's.
- MOTION:** **Senator Darrington** moved, seconded by **Senator Bock**, to send **S1081** to the floor with a do pass recommendation. The motion carried by **voice-vote**.
- S1049** **Relating to Public Assistance Law:** **Steve Bellomy**, Bureau Chief, Audits and Investigations, (DHW), stated the purpose of this bill is to modify Title 56, Public Assistance and Welfare, Chapter 2, Public Assistance Law, Section 27D, Federal Food Stamps to update the obsolete references in the existing law from Food Stamps, which no longer exist, to Food Stamp Benefits issued in any form, including through Electronic Benefit Transaction cards. This statute provides the Director of DHW with the means to enforce Public Assistance Laws and for law enforcement to pursue criminal penalties for the unauthorized use of food stamp benefits. **Mr. Bellomy** requested the Committee send **S1049** to the floor with a do pass recommendation.
- Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 3).
- MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Smyser**, to send **S1049** to the floor with a do pass recommendation. The motion carried by **voice-vote**.
- MOTION:** **Senator Bock** moved, seconded by **Senator Heider**, to approve the January 27, 2011 minutes as written. The motion carried by **voice-vote**.

- MOTION:** **Senator Nuxoll** moved, seconded by **Senator Schmidt**, to approve the January 31, 2011 minutes as written. The motion carried by **voice-vote**.
- MOTION:** **Senator Heider** moved, seconded by **Senator Bock**, to approve the February 1, 2011 minutes as written. The motion carried by **voice-vote**.
- MOTION:** **Senator Vick** moved, seconded by **Senator Schmidt**, to approve the February 2, 2011 minutes as written. The motion carried by **voice-vote**.
- MOTION:** **Senator Smyser** moved, seconded by **Senator Nuxoll**, to approve the February 3, 2011 minutes as written. The motion carried by **voice-vote**.
- Chairman Lodge** stated that today we would graduate the Committee page **Mary Kershnik**. She thanked **Ms. Kershnik** for her help, wished her the best of luck in her future, and presented her with a gift from the Committee.
- ADJOURNMENT:** There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 4:32 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Tuesday, February 22, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Confirmation Vote</b>	<b>Darrel Kerby</b> of Bonners Ferry, ID, was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.	
<b>Gubernatorial Appointment Hearing</b>	<b>Toni Hardesty</b> of Boise, ID, was reappointed as Director of the Department of Environmental Quality for a term commencing January 3, 2011 and expiring January 5, 2015.	Toni Hardesty
<b>Gubernatorial Appointment Hearing</b>	<b>John McCreedy</b> of Boise, ID, was appointed to the Board of Environmental Quality to serve a term commencing November 23, 2010 and expiring July 1, 2014.	John McCreedy
<a href="#"><u>S 1103</u></a>	<b>Relating to Child Support</b> - To revise the time frame during which an action or proceeding to collect child support arrearages can be commenced, declaring an emergency and providing retroactive application.	Kandace Yearsley
<a href="#"><u>S 1102</u></a>	<b>Relating to the Wholesale Drug Distribution Act</b> Amending Section 54-1752, Idaho Code, to define term, and declaring an emergency.	Elizabeth Criner
<a href="#"><u>S 1022</u></a>	<b>Relating to Archaic Statutory Language</b> - Amending Section 39-5606, Idaho Code, to revise terminology and to make a technical correction.	Senator Les Bock, District 16

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge

Vice Chair Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken

Room: WG48

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, February 22, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:03 p.m. and welcomed guests.

**GUBERNATORIAL CONFIRMATION VOTE:** **Darrel Kerby**, a resident of Bonners Ferry, ID was appointed to the Idaho State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Vick** to send the gubernatorial appointment of **Darrel Kerby** to the Idaho State Board of Health and Welfare to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Shawn Keough** will sponsor **Mr. Kerby** on the floor.

**GUBERNATORIAL APPOINTMENT HEARING:** **Toni Hardesty**, a resident of Boise, ID, was reappointed as Director of the Department of Environmental Quality (DEQ) for a term commencing January 3, 2011 and expiring January 5, 2015. **Director Hardesty** provided the Committee with a short biography of her professional and personal life. She stated she is a native of Idaho, has been Director of DEQ since July 2004, and has a degree in Environmental Health from Boise State University. She indicated she has previously worked with the Environmental Protection Agency (EPA) in Seattle and has also worked within the private sector. Her experience includes air quality issues, water quality issues, permitting in the United States and foreign countries. She stated the mission of DEQ is to protect the air, water, and land within the State of Idaho.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Senator Darrington** asked **Director Hardesty** if it is true that all she can administer at DEQ is that which is required of her by the state or federal law. **Director Hardesty** responded that is correct. **Senator Darrington** further asked if it is true that within DEQ rulemaking authority it cannot make rules contrary to or beyond the scope of the law, and that if it does, the legislature is a backstop to those rules if they were to get through negotiated rulemaking. **Director Hardesty** responded that is correct. She noted the rules also must be approved by the DEQ Board prior to coming to the legislature.

**Senator Nuxoll** inquired how **Director Hardesty's** experience working with the EPA and the private sector has helped her. **Director Hardesty** replied that her experience with the private sector, state, and federal agencies has given her the opportunity to see all sides of the issue and gave her an opportunity to see how issues were handled in other states. **Senator Nuxoll** asked what she does to keep up with global issues. **Director Hardesty** replied that although she does keep up with what is happening globally, her main focus is on the state issues. She is most concerned about global issues that could translate into a mandate from the federal government.

**Vice Chairman Broadword** noted that last year changes were made to take some rulemaking authority on regulation of septic systems from the Public Health Districts and give them to DEQ. She asked how the process was going. **Director Hardesty** advised that DEQ has developed and completed an action plan to conduct audits of the Health Districts, training for the Health Districts, and examination of their rules and regulations to make them clear and consistent with state requirements. She stated that the Health Districts had come forward this year with legislation to repeal rules that were above and beyond DEQ requirements. **Vice Chairman Broadword** asked **Director Hardesty** to comment on the status of the superfund designation EPA is attempting to get in the St. Maries area with regards to creosote cleanup. **Director Hardesty** indicated this cleanup site is within an area of the state that is on tribal property and EPA has direct authority. EPA has issued a draft statement and although DEQ does not have direct regulatory authority, it has provided comments.

In response to questions of the Committee related to Silver Valley Superfund site, **Director Hardesty** advised that the EPA is proposing an extensive Amended Record Decision encompassing activities for another 50 to 90 years. Both DEQ and county commissioners have submitted comments recognizing that there is additional work to be done, noting that significant accomplishments have been made and suggesting it would be more reasonable for them to come up with a 10 to 15 year plan. She stated that EPA has indicated that they have heard the position of DEQ and the community but that they have not yet issued a final Record of Decision. She stated that there is a large sum of money being held in trust by the Bankruptcy Court for that cleanup; that EPA has primacy for that cleanup site; and that Idaho will not get primacy in the cleanup. She did state that through DEQ's remediation program it was able to secure a grant from those funds so that DEQ would actually direct the remediation program, hire the contractors, and work with Idahoans, but the overall plan is the federal governments within their Record of Decision and they are going to hold on to that authority. She advised that DEQ cannot expect to gain primacy over the site until the clean up is complete. She noted that there are many active mines in the area and mining companies want to make sure that future mining can continue to occur within the superfund area. Language within the Record of Decision must clearly indicate that goal. DEQ has commented on that language and the mining companies are working directly with the EPA to get acceptable language in the record of decision.

**Chairman Lodge** thanked **Director Hardesty** for appearing before the Committee and advised her that a vote on her appointment would be taken at the next meeting. She asked **Ms. Hardesty** to introduce the other Board members attending the meeting. **Director Hardesty** introduced **Dr. Joan Cloonan**, who has served on the Board for many years and **John McCreedy**.

**GUBERNATORIAL  
APPOINTMENT  
HEARING:**

**John McCreedy**, a resident of Boise, ID, was appointed to the Board of Environmental Quality to serve a term commencing November 23, 2010 and expiring July 1, 2014. He stated that he is the Vice President of Administration and General Counsel for the Amalgamated Sugar Company LLC and General Counsel for Snake River Sugar Company. **Mr. McCreedy** provided the Committee with a short biography of his professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 2).

**Senator Darrington** asked if **Mr. McCreedy** supported the concept that our law cannot be more stringent than that required by the federal government. He replied yes. **Vice Chairman Broadsword** noted that **Mr. McCreedy** would bring a wealth of information to the Board and she commended him for serving.

**Chairman Lodge** thanked **Mr. McCreedy** for appearing before the Committee and advised him that a vote on his appointment would be taken at the next meeting

**S1103**

**Relating to Child Support: Kandace Yearsley**, Child Support Bureau Chief, Division of Welfare, Department of Health and Welfare (DHW), stated prior to this year, DHW, Child Support Program, was operating under the interpretation that child support arrears could be collected indefinitely, provided collection activities have been commenced prior to the running of the statute of limitations. A recent court decision has placed continued reliance on that interpretation in question. Under the court's interpretation, Idaho would have the shortest period of time in which child support arrears are enforceable in the country. Furthermore, if the court's interpretation were applied, Idaho Child Support Services would have to write off more than \$63,000,000 in unpaid child support, approximately \$20,000,000 of which is owed to the State. Finally, the Child Support Program would be at risk for claims of reimbursement of approximately \$11,500,000 for amounts collected in the last three years on cases where the collection window had expired. **Ms. Yearsley** requested the Committee send **S1103** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 3).

**Senator Smyser** stated she appreciated that DHW listened to concerns and was proactive in solving these issues. **Senator Darrington** stated that there is a law requiring DHW to review cases of child support that hold state interest every 3 years and asked how successful they were in doing this. **Ms. Yearsley** replied that DHW is very proactive about pursuing cases with state interest. The cases involved in this legislation are due and payable and there is an obligation to the State and to the parents who did not receive the child support. **Vice Chairman Broadsword** asked how \$20,000,000 is owed to the State. **Ms. Yearsley** responded that was money which was paid to cover birth costs, cash assistance, and legal or service fees. The state pays families first and then is reimbursed. **Senator Vick** asked how long this current practice has been in place. **Ms. Yearsley** replied she believes since around 1995. **Senator Vick** asked if there was discussion about appealing this decision rather than just changing the law. **Ms. Yearsley** answered that an appeal was filed but it was filed in the wrong county and by the time everything was sorted out it was too late.

**MOTION:**

**Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send **S1103** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Broadsword** will sponsor **S1103** on the floor.

**S1102**

**Relating to Wholesale Drug Distribution Act: Elizabeth Criner**, MWI Veterinary Supply, stated that in 2007 the Idaho Legislature passed the Idaho Wholesale Drug Distribution Act to limit the opportunity to introduce counterfeit drugs into the U.S. market via the wholesale transfer process. The Board of Pharmacy identified an unintended consequence with the law impacting veterinary pharmacy. This legislation will amend the law to recognize the veterinary pharmacy fulfillment model as a pharmacy regulated process. The bill adds a definition for veterinary pharmacy on page 3, line 17, an exemption of the veterinary pharmacy model from the definition of wholesale distribution on page 4, and includes an emergency clause. Veterinary pharmacy remains regulated, as it is today, under the Idaho Pharmacy Act as a properly licensed pharmacy. The proposed legislation would only cover a properly licensed veterinary pharmacy, using a licensed pharmacist, to provide pharmacy fulfillment on behalf of a veterinarian of record. **Ms. Criner** requested the Committee send **S1102** to the floor with a do pass recommendation.

**MOTION:**

**Senator Darrington** moved, seconded by **Vice Chairman Broadsword** to send **S1102** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Smyser** will sponsor **S1022** on the floor.

**S1022**

**Relating to Archaic Statutory Language: Senator Les Bock** stated Idaho enacted legislation in 2010 (Senate Bill 1330) to remove certain archaic terms from Idaho Code, replacing them with terminology consistent with contemporary usage and diagnostic manuals. That legislation replaced "mentally retarded" with "intellectually disabled"; "mental deficiency" with "mental disability"; "handicapped" with "disabled"; "lunatic" with "person with a mental disability"; and "idiot" with "person without understanding." While the Senate was deliberating S1330, the legislature enacted S1310, which amended Section 39-5606 in Idaho Code. This amendment contained the phrase "the mentally retarded." The purpose of this current bill is to make Section 39-5606 consistent with S1330 by replacing "mentally retarded" with "people with intellectual disabilities," and to change the acronym for immediate care facilities for such persons from "ICF/MR" to "ICF/ID." This legislation also provides a technical correction by striking a non-sequitur phrase in that same Section of the Code. **Senator Bock** requested the Committee send **S1022** to the floor with a do pass recommendation.

**MOTION:**

**Senator Darrington** moved, seconded by **Senator Smyser** to send **S1022** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Bock** will sponsor **S1022** on the floor.

**ADJOURNMENT:**

There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 3:45 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Wednesday, February 23, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Confirmation Vote</b>	<b>Toni Hardesty</b> of Boise, ID, was reappointed as Director of the Department of Environmental Quality for a term commencing January 3, 2011 and expiring January 5, 2015.	
<b>Gubernatorial Confirmation Vote</b>	<b>John McCree</b> of Boise, ID, was appointed to the Board of Environmental Quality to serve a term commencing November 23, 2010 and expiring July 1, 2014	
<a href="#"><u>S 1098</u></a>	<b>Relating to Nurses</b> - To revise provisions relating to the authority of the Board of Nursing to report investigative information.	Sandra Evans
<a href="#"><u>S 1074</u></a>	<b>Relating to Blood Donations By Minors</b> - To allow Idahoans age 16, with parental permission, to donate blood.	Senator Lee Heider, District 24
<a href="#"><u>RS20471</u></a> <b>Unanimous Request Hearing</b>	<b>Relating to The Chiropractic Practice Act</b> - Revising process of board appointments.	Tana Cory
<a href="#"><u>RS20472</u></a> <b>Unanimous Request Hearing</b>	<b>Relating to Optometrists</b> - Revising process of board appointments.	Tana Cory

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chair Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, February 23, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:03 and welcomed guests.

**GUBERNATORIAL CONFIRMATION VOTE:** **Toni Hardesty**, a resident of Boise, ID, was reappointed as Director of the Department of Environmental Quality for a term commencing January 3, 2011 and expiring January 5, 2015.

**MOTION:** **Senator Darrington** moved, seconded by **Vice Chairman Broadsword**, to send the gubernatorial appointment of **Toni Hardesty** as the Director of the Department of Environmental Quality to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Chairman Lodge** will sponsor **Director Hardesty** on the floor.

**GUBERNATORIAL CONFIRMATION VOTE:** **John McCreedy**, a resident of Boise, ID, was appointed to the Board of Environment Quality to serve a term commencing November 23, 2010 and expiring July 1, 2014.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Smyser**, to send the gubernatorial appointment of **John McCreedy** to the Board of Environmental Quality to the floor with a do pass recommendation. The motion carried by **voice-vote**.

**S1098** **Relating to Nurses: Sandra Evans**, Executive Director, Idaho Board of Nursing, stated this legislation revises a provision on sharing investigative information and provides authority for the executive director of the Board of Nursing to cooperate with government regulators and law enforcement agencies. Language included in the Nurse Licensure Compact specifically authorizes the Board to report this information to other state boards of nursing who are also members of the Compact, but does not extend to the 25 states outside of the Compact. A nurse who is known to have violated standards of conduct and practice in Idaho may pose a threat to patients in other states in which he/she might be practicing. The ability to share investigative information will extend protection beyond the Idaho Board's immediate jurisdiction to, among others, boards of nursing in other states. **Ms. Evans** requested the Committee send **S1098** to the floor with a do pass recommendation.

Supporting Documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Chairman Lodge** asked if the need for investigation is a common occurrence for the Idaho Board of Nursing. **Ms. Evans** responded not frequently, but when the Board is investigating and sees imminent danger, they need the ability to share information with other Boards and law enforcement agencies for protection. **Senator Schmidt** asked when Idaho adopted the Compact. **Ms. Evans** answered in 2001. **Senator Schmidt** asked if the Compact was stable or if states were leaving and returning. **Ms. Evans** replied since the implementation in 2000 no states have left. One or two states will join annually for financial or political reasons. In response to questions from the Committee, **Ms. Evans** stated this investigative information is not public so there is no other way to share it. The information does become public after a case is resolved and results in disciplinary action. The Board wants this bill to pass because they currently have authority to share information with the other 23 states in the Compact and want to expand that to all states in order to protect the public.

**MOTION:** **Senator Smyser** moved, seconded by **Vice Chairman Broadsword**, to send **S1098** to the floor with a do pass recommendation. **Senator Schmidt** will sponsor **S1098** on the floor.

**S1074** **Relating to Blood Donations By Minors:** **Senator Lee Heider** stated the purpose of this legislation is to change the Idaho Code, Section 39-3701 to allow Idahoans age 16, with parental permission, to donate blood. Allowing citizens to experience involvement in the donation of blood at this age is an important opportunity to become familiar with the procedure and the benefits of a lifetime of committed service to the community through donation. **Senator Heider** requested the Committee send **S1074** to the floor with a do pass recommendation.

**Senator Darrington** asked if there has been any opposition to this bill. **Senator Heider** answered no.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Schmidt**, to send **S1074** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Heider** will sponsor **S1074** on the floor.

**RS 20471** **Relating to The Chiropractic Practice Act:** **Chairman Lodge** announced **RS 20471** is being brought before the Committee for a unanimous request hearing. She asked the Committee to consider sending this RS to a privileged committee for printing. There were no objections.

**RS 20472** **Relating to Optometrists:** **Chairman Lodge** announced **RS 20472** is being brought before the Committee for a unanimous request hearing. She asked the Committee to consider sending this RS to a privileged committee for printing. There were no objections.

**Chairman Lodge** presented the Committee with a handout showing the differences between the Idaho Family Support Card and the Idaho Food Stamp Benefits Card. She stated the Family Support Card was a debit card and the Food Stamp Benefit Card was a card that could be used for only food items. **Senator Nuxoll** thanked **Chairman Lodge** for the handout and the opportunity to see the differences between the cards, she asked where the money on the Family Support Card came from. **Chairman Lodge** replied the money on a Family Support Card comes from the Temporary Assistance for Needy Families program or Child Support.

**ADJOURNMENT:** **Chairman Lodge** stated the Committee will be having joint meetings with the House on the medicaid legislation and adjourned the meeting at 3:25 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

**AGENDA**  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Thursday, February 24, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Presentation</b>	Idaho Criminal Justice Commission - Overview and Update	Brent Reinke, Chairman
<b>Gubernatorial Nomination Hearing</b>	<b>Richard T. Roberge</b> of Caldwell, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.	Dr. Richard T. Roberge
<b>Gubernatorial Nomination Hearing</b>	<b>Stephen Weeg</b> of Pocatello, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.	Stephen Weeg
<b>Minutes Approval</b>	Minutes of the February 7, 2011 meeting.	Senators Broadsword and Schmidt
<b>Minutes Approval</b>	Minutes of the February 8, 2011 meeting.	Senators Nuxoll and Bock
<b>Minutes Approval</b>	Minutes of the February 9, 2011 meeting.	Senators Darrington and Schmidt
<b>Minutes Approval</b>	Minutes of the February 10, 2011 meeting.	Senators Heider and Bock

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge	Sen Bock
Vice Chair Broadsword	Sen Schmidt
Sen Darrington	
Sen Smyser	
Sen Heider	
Sen Vick	
Sen Nuxoll	

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, February 24, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:11 p.m. and announced that the Update and Overview from the Idaho Criminal Justice Commission would be rescheduled and presented last.

**GUBERNATORIAL  
NOMINATION  
HEARING:** **Richard T. Roberge**, a resident of Caldwell, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015. He stated that he was a retired OB-GYN and has served on the Board for the last 12 years. He provided the Committee with a short biography of his professional and personal life.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Smyser** thanked **Dr. Roberge** for his service to the School Board in Caldwell and his service to the Board of Health and Welfare. **Senator Vick** stated he knows a physician who would like to donate his services to a health clinic but cannot afford the malpractice insurance required and asked if there was a solution that would allow him to help. **Dr. Roberge** answered that at times a voluntary health clinic will cover the insurance and deferred to **Denise Chuckovich**, Executive Director, Idaho Primary Care Association (IPCA). She stated that she believes the federal government recently changed their requirements for malpractice insurance so volunteer providers are covered. **Senator Smyser** asked what significant changes **Dr. Roberge** has seen in his 12 years on the Board. He responded the Board receives better information now than they use to. The Board receives information from around the state and various Health and Welfare offices. Also, the requirements for the people who work for the Department of Health and Welfare (DHW) has changed and although the office sizes and budget have shrunk, the employees of DHW do a great job.

**Chairman Lodge** thanked **Dr. Roberge** for appearing before the Committee and advised him that a vote on his confirmation would be taken on Monday, February 28, 2011.

**GUBERNATORIAL  
NOMINATION  
HEARING:** **Stephen Weeg**, a resident of Pocatello, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015. He stated he has been the Executive Director of Health West, Inc. (HWI). **Mr. Weeg** provided the Committee with a short biography of his professional and personal life.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

**Senator Darrington** spoke to **Mr. Weeg's** integrity, stating he has a lot of trust in **Mr. Weeg**. **Vice Chairman Broadsword** asked if **Mr. Weeg** had any advice or suggestions about the budget issues. He replied DHW focuses on the most vulnerable of people and this issue isn't if to cut, but where to cut. They need to discuss what individuals can do with less service and what individuals need service. Individuals with good primary care, cost Medicaid less in the long run. **Senator Nuxoll** noted that HWI is called a migrant and community health center and asked what migrant meant. **Mr. Weeg** answered they serve a lot of migrant workers or seasonal workers. It is a mission driven organization. **Senator Schmidt** stated he appreciated **Mr. Weeg's** work with the community health center and asked what procedures or processes have been developed at the Health center. **Mr. Weeg** answered that they have yearly reports on quality outcomes. He gave examples of how they manage individuals with primary care.

**Chairman Lodge** thanked **Mr. Roberge** for appearing before the Committee and advised him that a vote on his appointment would be taken on Monday, February 28, 2011.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Smyser**, to approve the February 7, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Bock**, to approve the February 8, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Darrington**, to approve the February 9, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Heider** moved, seconded by **Senator Bock**, to approve the February 10, 2011 minutes as written. The motion carried by **voice-vote**.

**PRESENTATION:** **Idaho Criminal Justice Commission- Overview and Update: Brent Reinke**, Director of Idaho Department of Corrections (IDOC), Chairman on Idaho Criminal Justice Commission (ICJC), presented the ICJC overview and update. He stated there were a few members of the Commission attending the meeting who would also share in the presentation. **Director Reinke** introduced **Daniel Chadwick**, Executive Director of Idaho Associations of Counties, **Sharon Harrigfeld**, Director of Idaho Department of Juvenile Corrections, and **Molly Huskey**, State Appellate Public Defender. He announced that the Committee would hear brief updates from some of ICJC Subcommittees. ICJC Subcommittees include the Criminal Justice Research Alliance, Children of Incarcerated Parents, Public Defense, Regional Offender Management Centers, Misdemeanor Probation Project, Gang Strategies, and Sex Offender Management.

**Director Reinke** displayed a photo of a Banyan Tree planted in 1857 that has dropped roots from its branches covering two-thirds of an acre. He indicated the support of that tree by its immense root growth is a great analogy to what Idaho does in the criminal justice system. Through support of each of its committees and problem solving courts the criminal justice system has learned the importance of depending upon each other and planning for the future. If a decision is made in corrections we take into account how it will affect the rest of the system. By doing that we support each other and we continues to grow and leverage our resources.

**Ms. Huskey** presented the Sex Offender Management Subcommittee update. She stated in 2009 the Idaho Supreme Court ruled that the process in which violent sexual predators were designated was unconstitutional. Since that time the Subcommittee has been looking at ways in which it can give the due process that the community requires but still provide the significant community safety that was the primary goal. The Subcommittee reviewed the Adam Walsh Act (SORNA) adopted by Congress in 2006 which enhances requirements for sex offenders reporting. The requirements of SORNA must be met by July 27, 2011, or Idaho risks losing ten percent of the Byrne JAG award which is approximately \$180,000. After that review the Subcommittee ultimately decided to eliminate the VSP designation only because it did not provide community safety. **Ms. Huskey** stated that if we want our community to be safe, we need to manage those individuals who are at risk to reoffend or might create any sort of public safety risk. The Subcommittee has enhanced that precaution and enhanced the way in which those individuals are managed without incurring the significant cost of continued hearing in order to provide the due process that was required under the Supreme Court decision. **Director Reinke** stated ICJC will be looking to create a Sex Offender Management Board to replace the Sex Offender Classification Board.

**Director Reinke** stated another focus this year will be on the Idaho Gang Enhancement Act. The first change will be to add criminal acts to establish a pattern of criminal gang behavior. They will add injury by graffiti, human trafficking, crimes while incarcerated, and sex crimes such as sexual abuse under the age of 16; sexual exploitation of a child; lewd contact with a minor child under 16; and sexual battery of a child. The next change will be a change of punishment. The plan is to increase sentence lengths to deter criminal gang activity.

**Mr. Chadwick** presented the update on the Misdemeanor Probation Subcommittee. He stated the misdemeanor probation system will keep individuals out of the felony system and the Idaho Department of Corrections. The Subcommittee has introduced H408 which provides a statutory framework for achieving professional and consistent misdemeanor probation services. A full-time project manager has been hired for the Byrne JAG Award. The goals of the Subcommittee are the development of POST academy, development and implementation of statewide standards and professional responsibilities, implementation of the LSI-R risk/needs assessment statewide, and enhanced automated case management of misdemeanant offenders.

**Director Harrigfeld** presented the update from the Children of Incarcerated Parents Subcommittee. She stated children who have parents in the criminal justice system are much more likely to be involved in the criminal justice system themselves. There is a pilot program which will expand to the Pocatello Women's Correctional Center that serves 11 pregnant and incarcerated women. The Subcommittee has implemented and is working on community awareness, professional support, and support for children; parents; and caregivers.

**Mr. Chadwick** presented the update on the Public Defense Subcommittee. He stated the job of the Subcommittee is to develop recommendations to improve Idaho's public defense system. The potential deficiencies in Idaho's system are training of public defenders and others in the criminal justice system; statewide standards for caseloads, contracts, and professional qualifications; oversight, and juvenile and misdemeanor representation. The work the Subcommittee currently has underway is to develop a statewide model for indigent defense services; develop standards for training, functions, job descriptions, caseloads, and contracts; develop indigency guidelines; outline training curriculum for public defenders; and address the funding needed.

**Director Reinke** presented the update from the Regional Offender Management Centers Subcommittee. He stated these facilities would meet the needs of counties and states. He stated in the years to come the Committee would hear more about Regional Offender Management Centers and the Public Defender work. This year ICJC wants to focus on Gangs and Sex Offenders.

Supporting documents relating to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 3).

**Senator Smyser** asked what the motivation is to increase the amount of time served for gang members. **Director Reinke** answered this was recommended by law enforcement and public defenders. He stated they would enhance the existing act and increase sentences and that this has been successful in the Treasure Valley and other areas. **Chairman Lodge** asked if there was also a program to handle gang violence in prison. **Director Reinke** answered this enhancement will give the tools needed to hold individuals accountable for gang violence in prison. **Chairman Lodge** asked what counties will be in the pilot program. **Director Reinke** responded it has not yet been decided. **Senator Heider** asked if there has been a study or if they intend to do a study showing that children with incarcerated parents have a higher propensity for being incarcerated in their futures. **Director Harrigfeld** replied no. ICJC gets information from a risk assessment done by DHW. They will work with DHW to prevent kids with incarcerated parents from becoming involved with the criminal justice system. **Director Reinke** stated the Annie E. Casey Foundation has done research on this problem and they have determined a child with an incarcerated parent is 5 times more likely to become incarcerated themselves.

**Senator Nuxoll** asked about the human trafficking problem and how it affects Idaho. **Senator Darrington** stated it is not just an intercity problem in big cities in America. It affects rural areas as well. The Dakotas have a very serious human trafficking problem. There has not been prosecution in Idaho. **Chairman Lodge** asked about the policy for incarcerated pregnant women during childbirth. **Director Reinke** stated there has not been a large amount of problems with this in Idaho. Legislation is being created to protect pregnant women who are incarcerated because there have been concerns in other states.

**ADJOURNMENT:** **Chairman Lodge** thanked all of the members of the ICJC for their presentations and adjourned the meeting at 4:06 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Monday, February 28, 2011

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Nomination Vote</b>	<b>Richard T. Roberge</b> of Caldwell, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.	
<b>Gubernatorial Nomination Vote</b>	<b>Stephen Weeg</b> of Pocatello, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.	
<a href="#"><u>S 1076</u></a>	<b>Relating to the Commission on Aging</b> - To revise definitions and make technical corrections	Sharon Duncan

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, February 28, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:09 p.m. and welcomed guests.

**GUBERNATORIAL NOMINATION VOTE:** **Richard T. Roberge**, a resident of Caldwell, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Smyser**, to send the gubernatorial appointment of **Richard T. Roberge** to the Idaho State Board of Health and Welfare to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice-vote**. **Senator John McGee** will sponsor **Mr. Roberge's** appointment on the floor.

**GUBERNATORIAL NOMINATION VOTE:** **Stephen Weeg**, a resident of Pocatello, ID was appointed to the State Board of Health and Welfare to serve a term commencing January 7, 2011 and expiring January 7, 2015.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Vick**, to send the gubernatorial appointment of **Stephen Weeg** to the Idaho State Board of Health and Welfare to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice-vote**. **Senator Darrington** will sponsor **Mr. Weeg's** appointment on the floor.

**S1076** **Relating to the Commission on Aging: Sharon Duncan**, stated the Idaho Commission on Aging (ICOA) proposes state statutory language changes in an effort to align Idaho statutes with those outlined in the Older Americans Act and reflect national federal systems change initiatives for Aging and Disability Resource Centers (ADRC). These definitions include transportation, in-home services, congregate meals, older persons, adult day care, information and assistance service, information and referral, and aging and disability resource center. ADRCs are envisioned to: optimize choice and independence; be served by an adequate workforce; be transparent; encourage personal responsibility; provide coordinated, high quality care; be financially sustainable; and utilize health information technology. ADRCs have a critical role in supporting long-term reform by improving the ability of state and local governments to effectively manage the system, monitor program quality and measure responsiveness of state and local systems of care. In 2005 Idaho was funded with a three-year federal grant. The Division of Medicaid, Department of Health and Welfare (DHW) served as the grantee and partnered with the ICOA to create an ADRC pilot program. In 2006 HCR52 passed supporting the establishment of an ADRC in Idaho. In 2009, ICOA was awarded a three-year ADRC federal grant from the Administration on Aging to further expand Idaho's ADRC efforts to a statewide

model. **Ms. Duncan** requested the Committee send **S1076** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Vice Chairman Broadsword** asked how much money was received from the 2005 grant. **Ms. Duncan** answered \$700,000 to be spent over 3 years. **Vice Chairman Broadsword** asked how the money from that grant was distributed. **Ms. Duncan** replied that it was a planning grant and the money could not be used for direct services. She stated the current grant was received in 2009. **Vice Chairman Broadsword** asked how this will effect individuals without computer access. **Ms. Duncan** answered there are other ways to get information. Some of the money from the current grant will be strictly for physical locations. **Vice Chairman Broadsword** asked what money was left from the 2009 grant. **Ms. Duncan** answered the 2009 grant was to be used over 3 years. \$20,000 was allowed to area agencies to use. The third year will be based on a five-year plan and budget. **Senator Darrington** asked if this legislation would be a better utilization of services and not an expansion. **Ms. Duncan** replied that is correct. **Senator Nuxoll** asked why this legislation is not part of the rules. **Ms. Duncan** answered that these definitions are not identified in the rules. This is a definition from federal statute that will be added to our statute. **Senator Darrington** asked if this bill will give statutory authority, so next year rules may be created and the Committee will decide whether they are according to law. **Ms. Duncan** replied yes. **Senator Schmidt** asked if this grant will be administrated by the Department of Health and Welfare. **Ms. Duncan** responded no.

**MOTION:** **Senator Heider** moved, seconded by **Senator Bock**, to send **S1076** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Heider** will sponsor **S1076** on the floor.

**ADJOURNMENT:** **Chairman Lodge** thanked the Committee members and guests. There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 3:28 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Tuesday, March 01, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Hearing</b>	<b>James Vincent Giuffre</b> of Boise, ID was appointed to the State Board of Health and Welfare to serve a term commencing February 1, 2011 and expiring January 7, 2015.	James Vincent Giuffre
<a href="#"><u>HCR 12</u></a>	<b>A Concurrent Resolution</b> Stating Findings of the Legislature and Rejecting Section 663, Subsection 02.a of Docket No. 16-0310-1002 Relating to Medicaid Enhanced Plan Benefits, Habilitative Supports.	Representative Janice McGeachin
<a href="#"><u>HCR 13</u></a>	<b>A Concurrent Resolution</b> Stating Findings of the Legislature and Rejecting Section 270, Subsection 03 and 07 of Docket No. 16-310-1003 Relating to Medicaid Enhanced Plan Benefits, Nursing Facility.	Representative Janice McGeachin
<a href="#"><u>HCR 14</u></a>	<b>A Concurrent Resolution</b> Stating Findings of the Legislature and Rejecting Section 210, Subsection 01.j of Docket No. 16-506-1001 Relating to Medicaid Enhanced Plan Benefits, Rules Governing Criminal History and Background Checks..	Representative Janice McGeachin
<a href="#"><u>S 1100</u></a>	<b>Relating to Immunizations</b> - Updating language to conform to current standard medical practice regarding immunization records.	Dr. Christine Hahn
<a href="#"><u>S1101</u></a>	<b>Relating to Daycare Facilities</b> - Updating language to conform to current standard medical practice regarding immunization records.	Dr. Christine Hahn

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge	Sen Vick
Vice Chair Broadsword	Sen Nuxoll
Sen Darrington	Sen Bock
Sen Smyser	Sen Schmidt
Sen Heider	

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, March 01, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/ EXCUSED:** Chairman Lodge

**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.

**MINUTES:** **Vice Chairman Broadsword** called the meeting to order at 3:04 p.m. and noted that **Chairman Lodge** would not be able to attend the meeting today.

**GUBERNATORIAL APPOINTMENT HEARING:** **James Vincent Giuffre**, of Boise, ID was appointed to the State Board of Health and Welfare to serve a term commencing February 1, 2011 and expiring January 7, 2015. He stated that he is currently the Chief Operating Officer for Healthwise, Inc. in Boise, ID. **Mr. Giuffre** provided the Committee with a short biography of his professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

In response to questions from the committee, **Mr. Giuffre** advised that as a public health director he focused on bringing the private and public sector together to serve a lot of maternal and child health needs, in particular low-income Medicaid women. He indicated in his position with Healthwise he also focuses on teaching people self care skill so that they can do a better job of taking care of themselves. He stated his 30 plus years of experience in the health field allow him to contribute new ways for Medicaid recipients to better manage self care and chronic conditions and that he additionally has some experience in water quality and sewage issues. He stated he is looking forward to learning with the Department and the Director and noted that as a District Health Department Director he had a strong relationship with the Department from a funding point of view and the cooperative relationships developed with state coordinators led to the development of best practices. He stated there is a huge challenge to really help those in need with significant health issues which will require some tough decisions and complimented **Director Armstrong** and his staff on doing a terrific job. He stated that should provisions of the Obama Health Care Plan requiring health data exchange be enforced, he can bring his experience at Healthwise in working with a broad number of electronic medical records companies across the country and staff experience they have within Healthwise to the table.

**Vice Chairman Broadsword** thanked **Mr. Giuffre** for appearing before the Committee and advised him that a vote on his appointment would be taken at the next meeting.

**Vice Chairman Broadsword** advised that there would be a change in the scheduled agenda to allow **Dr. Christine Hahn** to present first.

**S1100**

**Relating to Immunizations: Dr. Christine Hahn**, State Epidemiologist, Division of Health, (DHW), stated the purpose of this bill is to modernize language within Title 39, Health and Safety, Chapter 48, Immunization, to conform to current standard medical practice. Currently, licensed healthcare professionals (i.e. nurse practitioners, physicians' assistants, registered nurses, and licensed nurses) are not authorized to sign immunization documents required for school admission; this authority is presently limited to physicians or their representatives. Additionally, an immunization record, a document commonly used to demonstrate immunity, may not be accepted as proof of immunization status. Updating this language will make it easier for providers and parents to show proof of immunity for school admission, and allow for the use of electronic health records. **Dr. Hahn** requested the Committee send **S1100** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 2).

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Bock**, to send **S1100** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Schmidt** will sponsor **S1100** on the floor.

**S1101**

**Relating to Daycare Facilities: Dr. Hahn** stated the purpose of this bill is to modernize language within Title 39, Health and Safety, Chapter 11, Basic Day Care License, to conform to current standard medical practice. Currently, licensed healthcare professionals (i.e. nurse practitioners, physicians' assistants, registered nurses, and licensed nurses) are not authorized to sign immunization documents required for daycare attendance; this authority is presently limited to physicians and representatives of district health departments. Additionally, an immunization record, a document commonly used to demonstrate immunity, may not be accepted as proof of immunization status. Updating this language will make it easier for providers and parents to show proof of immunity for daycare attendance, and allow for the use of electronic health records. **Dr. Hahn** requested the Committee send **S1101** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 3).

**Senator Nuxoll** asked what the difference is between **S1101** and **S1100**. **Dr. Hahn** replied the intent is the same, but the bills are for two different areas in Idaho Code. It will allow healthcare professionals to sign off for immunization records required for school and daycare attendance.

**MOTION:**

**Senator Bock** moved, seconded by **Senator Nuxoll**, to send **S1101** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Schmidt** will sponsor **S1101** on the floor.

**HCR12, HCR13,  
and HCR14**

**Representative Janice McGeachin** presented the House concurrent resolutions. These resolutions conform House and Senate recommendations on excepted portions of **Rule Docket No.s 16-0310-1002, 16-0310-1003, and 16-0506-1001**. **Vice Chairman Broadsword** noted the Committee previously approved these rules with the exceptions. The Committee electronically reviewed the portions of the rules excepted.

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Nuxoll**, to send **HCR12** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Vice Chairman Broadsword** will sponsor **HCR12** on the floor.

**MOTION:** **Senator Bock** moved, seconded by **Senator Heider**, to send **HCR13** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Vice Chairman Broadsword will sponsor HCR13** on the floor.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, to send **HCR14** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Vice Chairman Broadsword will sponsor HCR14** on the floor.

**ADJOURNMENT:** **Vice Chairman Broadsword** announced there would be no Committee meeting tomorrow and adjourned the meeting at 3:35 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Thursday, March 03, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Vote</b>	<b>James Vincent Giuffre</b> of Boise, ID was appointed to the State Board of Health and Welfare to serve a term commencing February 2, 2011 and expiring January 7, 2015.	
<b>Gubernatorial Appointment Hearing</b>	<b>Suzanne Budge</b> of Boise, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.	Suzanne Budge
<a href="#"><u>S 1084</u></a>	<b>Relating to Adoption</b> - To remove provisions permitting social investigations by certain individuals.	Cameron Gilliland
<a href="#"><u>H 46</u></a>	<b>Relating to Acupuncture</b> - Eliminating the technician license status and establishing a trainee permit.	Roger Hales
<a href="#"><u>H 47</u></a>	<b>Relating to the Speech and Hearing Services Practice Act</b> - Removing outdated language and adding provisions for licensure by endorsement.	Roger Hales
<a href="#"><u>H 48</u></a>	<b>Relating to the Idaho Residential Care Administrators Act</b> - Removing members of the Board of Examiners of Residential Care Facility Administrators from the Public Employee Retirement System of Idaho.	Roger Hales
<a href="#"><u>H 49</u></a>	<b>Relating to the Idaho Residential Care Administrators Act</b> - Amending the qualifications for a license to require a combination of education and documented experience in a residential care facility.	Roger Hales
<b>Minutes Approval</b>	Minutes of the Meeting of February 14, 2011	Senators Vick and Schmidt
<b>Minutes Approval</b>	Minutes of the Meeting of February 17, 2011	Senators Broadsword and Schmidt
<b>Minutes Approval</b>	Minutes of the Meeting of February 23, 2011	Senators Nuxoll and Schmidt

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge

Vice Chair Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, March 03, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:06 p.m. and welcomed guests.

**GUBERNATORIAL APPOINTMENT VOTE:** **James Vincent Giuffre**, a resident of Boise, ID was appointed to the State Board of Health and Welfare to serve a term commencing February 2, 2011 and expiring January 7, 2015.

**MOTION:** **Senator Bock** moved, seconded by **Vice Chairman Broadsword**, to send the gubernatorial appointment of **James Vincent Giuffre** to the Idaho State Board of Health and Welfare to the floor with a do pass recommendation. **Senator Bock** noted that he was impressed with **Mr. Giuffre's** qualifications. The motion passed by **voice-vote**. **Senator Bock** will sponsor **Mr. Giuffre's** appointment on the floor.

**GUBERNATORIAL APPOINTMENT HEARING:** **Suzanne Budge**, a resident of Boise, ID was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012. She stated this is her third term on the Panel. **Ms. Budge** provided the Committee with a short biography of her professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Senator Darrington** noted his involvement in the writing of the Hazardous Waste Facility Siting Act. He stated that although the Panel meets infrequently, it is still important. It is important to have someone with **Ms. Budge's** expertise on the Panel. **Senator Nuxoll** asked **Ms. Budge** to explain what she did while with the Idaho National Laboratory. **Ms. Budge** replied that she worked at the then Idaho National Engineering Laboratory in the Resource Waste Management Center. They would drill a well into areas where waste was buried in order to do research. She received her certification in hazardous waste training during this time.

**Chairman Lodge** thanked **Ms. Budge** for appearing before the Committee and advised her that a vote on her appointment would be taken on Monday, March 7, 2011.

**Relating to Adoption: Cameron Gilliland**, Policy Bureau Chief, Central Office, Division of Family and Community Services, Department of Health and Welfare (DHW), stated the purpose of this bill is to eliminate the ability of individuals to provide adoption services without licensure, liability insurance, and the oversight of an adoption agency. Currently, Certified Adoption Professionals (CAPS) are able to provide adoptions services. Several years ago the state needed these individuals to perform functions but licensed agencies are now able to deliver these services throughout the state. Current statute provides little ability to regulate these services for the DHW and adequate oversight would create an increasing workload for decreased staff. Current adoption services provided by these individuals are of inconsistent quality, and have generated concerns from individual citizens, private adoption agencies, and the courts. **Mr. Gilliland** requested the Committee send **S1084** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 2).

**Senator Nuxoll** asked who provided the oversight for private adoption agencies. **Mr. Gilliland** replied that private adoption agencies are examined and licensed annually by DHW. **Senator Darrington** noted that he has heard from an agency who was not informed of this legislation until very recently and is very opposed to this bill. He asked if this bill were to pass, would it be an advantage or disadvantage to the agencies. **Mr. Gilliland** responded that every effort was made to contact adoption agencies, CAPS, and other stakeholders. He believes this bill would benefit agencies who would absorb adoption cases that CAPS would otherwise have been handling. **Senator Darrington** asked what a home study costs. **Mr. Gilliland** answered lower level home studies cost from \$850 to \$1500. They found adoption agencies and CAPS to be close to the same in prices. Adoption agencies offer many more services, such as working with the child and parents, which can cost more money. **Vice Chairman Broadword** asked if agencies would be able to hire CAPS to allow them to continue to work and if this bill would have any effect on the agencies. **Mr. Gilliland** replied that many CAPS are already employed by agencies. He expects some other CAPS will be employed by an agency. This bill will not affect an agency's ability to provide services.

**Senator Smyser** asked how many complaints DHW has received against CAPS and how they track them. **Mr. Gilliland** answered regional programs keep track of complaints. He does not have a specific number, only anecdotal stories of complaints. **Senator Smyser** asked if complaints were the reason for this bill. **Mr. Gilliland** responded the complaints and the fact that the DHW does not have the resources to continue the oversight of CAPS. **Senator Schmidt** asked if the only way DHW can oversee private agencies is through the licensing procedure. **Mr. Gilliland** answered yes. **Senator Schmidt** asked if there have been any complaints against the agencies. **Mr. Gilliland** replied that he does not have that information but it is not a glaring issue as it is with CAPS. Agencies have good supervision and are required to have insurance.

**Senator Heider** stated a lot of the time legal firms and attorneys handle adoption matters and asked if they would still have authority to do this. **Mr. Gilliland** replied that legal firms and attorneys contract with either an adoption agency or CAPS to do the home study required for adoption. Their role would not change, they would have to go through an agency for the home study. **Senator Schmidt** noted that CAPS were established in part to help with rural areas and asked if this bill would hurt those areas and the ability to find adoption services. **Mr. Gilliland** responded that adoption agencies are now state wide and this would not affect rural areas. **Senator Vick** asked if DHW has the ability to revoke certificates from CAPS. **Mr. Gilliland** replied yes, in cases of negligence, misrepresentation, commission of a felony, or pattern of failure to provide information to DHW. **Senator Vick** asked why DHW did not improve the decertification system instead of using the plan in this bill. **Mr. Gilliland** answered DHW did look into doing that. However, they lack the resources to provide the manpower and time to oversee the CAPS and DHW feels agencies provide a better system.

**TESTIMONY:**

**Stephanie Pearl**, Executive Director, A New Beginning Adoption Agency, spoke in support of **S1084**. She stated that she has seen first hand issues caused by CAPS performing home studies that required an agency. The fact that insurance is not required by a CAP is worrisome. Agency staff are required to complete yearly training.

**Chairman Lodge** asked if insurance is available for CAPS. **Ms. Pearl** answered she believes so.

**Martha Wiser**, SNAPS Inc., stated that she is conflicted about this bill. She does not completely oppose this bill, but she does have issues with it. She feels this bill is a good thing because she has seen the issues caused by CAPS doing home studies without informing the families that a particular adoption may require a licensed agency perform the home study. She also has sympathy for CAPS because many of them do a good job.

**Chairman Lodge** stated that she knows a couple that had an issue with a CAP who provided a home study in an adoption that required an agency. They were delayed in the approval of the adoption. **Senator Vick** asked if licensed agencies would be able to handle the increased workload caused by CAPS no longer being able to provide services. **Ms. Wiser** answered that this issue is what she has a difficult time with. She hopes CAPS will be employed by agencies because there is a need for CAPS in rural areas. **Senator Vick** stated as an adoptive parent he understands the urgency when you find the child you want to make a part of your family and he is concerned about the delays this may cause for children trying to find families.

**Lisa Manery**, a certified adoption professional, spoke in opposition to **S1084**. She stated this bill will eliminate a valuable asset to the community. **Ms. Manery** noted that she is required to pay the DHW \$50 to review every social investigation report she writes and \$30 for court reports or post placement reports. She does not know why the reports are not reviewed thoroughly. She suggests the application process for certification of CAPS become centralized and a fee be charged. With specific requirements, specialized training, the requirement for insurance, and a fee for certification, CAPS would be well trained and prepared and DHW would incur no extra cost.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 3).

**Vice Chairman Broadsword** asked if **Ms. Manery** had a suggestion on how to fix the problem of DHW not having the resources to continue the oversight of CAPS. **Ms. Manery** responded that she believes this issue needs more work and more discussion between CAPS, DHW, and agencies before a decision is made and that she does not know about an initial fee, however she has never payed a fee to recertify and if a recertification fee was charged perhaps that could help increase funding for DHW.

**Chairman Lodge** asked **Mr. Gilliland** to address the concerns raised during testimony. **Chairman Lodge** asked how many CAPS there are in Idaho. **Mr. Gilliland** answered 38. **Chairman Lodge** asked if the cost is around \$2,450 a month to oversee CAPS. **Mr. Gilliland** replied yes, it takes nine individuals eight hours a month. **Senator Darrington** asked if the \$50 and \$30 fee for report reviewing does not go back towards the oversight, where does the money go. **Mr. Gilliland** answered he cannot speak to where the money goes specifically but most of the money does not go back to oversight. **Senator Darrington** asked should this legislation become law, would new rules need to be adopted. **Mr. Gilliland** responded yes. **Senator Darrington** asked if this bill would eliminate CAPS completely. **Mr. Gilliland** answered yes. **Vice Chairman Broadsword** asked if DHW had given any thought to other solutions, such as charging fees to CAPS for education or certification. **Mr. Gilliland** answered yes, but it comes down to a lack of funding and already having one working system. DHW does not feel they need both, when there are so many issues with CAPS. **Vice Chairman Broadsword** asked if the 6 agencies in Idaho would be able to cover the whole state. **Mr. Gilliland** replied that the 6 agencies are statewide and include more than one location and a large staff.

**Chairman Lodge** asked how many adoptions are done in Idaho yearly. **Mr. Gilliland** answered between 500 and 600 total. 185 home studies a year are done by CAPS, 163 by agencies, and 313 by DHW. **Senator Bock** asked what the cost was to DHW for the home studies done by CAPS last year. **Mr. Gilliland** responded between \$25,000 and \$30,000. **Senator Bock** asked why this money could not be charged to the CAPS individually. **Mr. Gilliland** replied that they would have to research the cost of doing this. Also, if CAPS are to continue providing services the oversight would need to be increased so the costs would likely double. **Senator Nuxoll** asked if church agencies went through DHW. **Mr. Gilliland** answered all agencies in Idaho are licensed by DHW and churches may access these agencies or CAPS currently.

**MOTION:** **Senator Heider** moved, seconded by **Vice Chairman Broadsword**, to send **S1084** to the floor with a do pass recommendation.

**SUBSTITUTE MOTION:** **Senator Darrington** moved, seconded by **Senator Smyser**, that the Committee hold **S1084** in Committee.

The Committee discussed the bill and motions. **Senator Nuxoll** noted that she knows how badly many parents want to adopt children and if this delays that process, it will not be fair to the children or parents. **Senator Smyser** stated that in light of all the issues, she feels DHW needs to work this out. **Senator Vick** noted that he sympathizes with the DHW and their lack of resources, but feels CAPS are handling a lot of adoptions and the delays this may cause in those adoptions is worrisome. **Vice Chairman Broadsword** advised that DHW has had their budget cut so much that they just do not have the resources to over see this. The Committee has to respect that DHW knows what they are doing and knows more about the problems caused by CAPS. **Senator Smyser** stated her concern that there was no actual information given to the Committee showing specific complaints about CAPS. **Senator Schmidt** acknowledged he agrees there is a conflict for DHW but feels the proper government role is to have the state involved in over seeing these individuals. **Senator Heider** suggested the

agencies work with CAPS. **Senator Darrington** stated that the problem would not be solved either way and it would be wise to wait another year.

**VOTE:**

A **voice-vote** was taken on the substitute motion that the Committee hold **S1084** in Committee. The motion carried by **voice-vote** with **Vice Chairman Broadsword** requesting her "Nay" vote be recorded. **Senator Bock** suggested DHW, CAPS, and agencies get together to find a solution before the session is over.

**H46**

**Relating to Acupuncture: Roger Hales**, Attorney representing the Idaho Bureau of Occupation Licenses, stated the Idaho Board of Acupuncture is eliminating the technician license status and establishing a trainee permit. The proposed changes would specify that a trainee may practice on a supervised, limited basis as part of the certified acupuncturist training program. This bill clarifies the qualifications for acupuncture certification and the requirements for an acupuncture trainee permit. Finally, this bill adds failure to comply with a board order as a reason to discipline a license. **Mr. Hales** requested the Committee send **H46** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 4).

**Vice Chairman Broadsword** asked if the Board of Acupuncture is solvent. **Mr. Hales** replied yes.

**MOTION:**

**Senator Schmidt** moved, seconded by **Senator Nuxoll**, to send **H46** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Schmidt** will sponsor **H46** on the floor.

**H47**

**Relating to the Speech and Hearing Services: Mr. Hales** stated the Speech and Hearing Services Licensure Board is amending Idaho Code 54-2918, to remove outdated language and to add provisions for licensure by endorsement. The Board is also adding hearing aid dealer and fitter language to the unlawful practice section in Idaho Code 54-2927. **Mr. Hales** requested the Committee send **H47** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 5).

**MOTION:**

**Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send **H47** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Bock** will sponsor **H47** on the floor.

**H48**

**Relating to the Idaho Residential Care Administrators Act: Mr. Hales** stated this bill will remove members of the Board of Examiners of Residential Care Facility Administrators from the Public Employee Retirement System of Idaho (PERSI) by changing the payment they receive from compensation to an honorarium under Idaho Code 59-509. This bill also deletes outdated language. **Mr. Hales** requested the Committee send **H48** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 6).

**MOTION:**

**Senator Smyser** moved, seconded by **Senator Nuxoll**, to send **H48** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Smyser** will sponsor **H48** on the floor.

**H49**

**Relating to the Idaho Residential Care Administrators Act: Mr. Hales** stated the Board of Examiners of Residential Care Facility Administrators is amending the qualifications for licensure to require a combination of education and documented experience in a residential care facility. **Mr. Hales** requested the Committee send **H49** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 7).

**Senator Nuxoll** asked if an individual is paid for the experience required for licensure. **Mr. Hales** replied it can be paid or non-paid experience. **Senator Heider** asked if an individual needed a degree in a specific area of study. **Mr. Hales** answered no.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Heider**, to send **H49** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Nuxoll** will sponsor **H49** on the floor.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Vick**, to approve the February 14, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Schmidt**, to approve the February 17, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Schmidt**, to approve the February 23, 2011 minutes as written. The motion carried by **voice-vote**.

**ADJOURNMENT:** **Chairman Lodge** stated that joint hearings with the House on the Medicaid budget would begin Tuesday, March 8, 2011 at 1:30 p.m. in the auditorium and adjourned the meeting at 4:42 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Monday, March 07, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Vote</b>	<b>Suzanne Budge</b> of Boise, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012	
<b>Gubernatorial Appointment Hearing</b>	<b>Kermit Kiebert</b> of Ponderay, ID, was appointed to the Board of Environmental Quality to serve a term commencing July 1, 2010 and expiring July 1, 2014	Kermit Kiebert
<a href="#"><u>S 1137</u></a>	<b>Relating to Optometrists</b> - To revise provisions relating to the appointment of members of the State Board of Optometry.	Tana Cory
<a href="#"><u>S 1138</u></a>	<b>Relating to the Chiropractic Practice Act</b> - To revise provisions relating to the appointment of members to the State Board of Chiropractic Physicians.	Tana Cory
<b>Presentation</b>	U.S. Ecology - Overview	Simon Bell, Terry Geis, Jim Baumgardner
<b>Minutes Approval</b>	Minutes of the Meeting of February 22, 2011	Senators Darrington and Bock

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge	Sen Bock
Vice Chair Broadsword	Sen Schmidt
Sen Darrington	
Sen Smyser	
Sen Heider	
Sen Vick	
Sen Nuxoll	

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, March 07, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:03 p.m. and introduced **Roy Eiguren**, Attorney representing the U.S. Ecology Corporation. **Mr. Eiguren** acknowledged **Dr. Gloria Toticaguena**, Cenarrusa Foundation Board of Advisors. **Dr. Toticaguena** introduced a group of businessmen from Kopinski, which is one of 260 companies that make up the federation of the Basque Mondragon Cooperatives. The group of businessmen are learning about democracy in America.

**GUBERNATORIAL APPOINTMENT VOTE:** **Suzanne Budge** of Boise, ID was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send the gubernatorial appointment of **Suzanne Budge** to the Hazardous Waste Facility Siting License Application Review Panel to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Smyser** will sponsor **Ms. Budge's** appointment on the floor.

**GUBERNATORIAL APPOINTMENT HEARING:** **Kermit Kiebert**, Ponderay, ID was appointed to the Board of Environmental Quality to serve a term commencing July 1, 2010 and expiring July 1, 2014. He stated that he has been involved for 38 years and provided the Committee with a short biography of his professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 1).

**Senator Darrington** asked if the Department of Environmental Quality (DEQ) and the Board of Environmental Quality were involved with the Silver Valley Superfund Site. **Mr. Kiebert** responded that they are peripherally involved and that it is a tough issue right now. **Senator Darrington** asked if community meetings on the Silver Valley Superfund Site were still held regularly. **Mr. Kiebert** answered yes. **Vice Chairman Broadsword** asked if the Basin Commission is still meeting and if the Director of that Commission was hired by DEQ with money from the EPA. **Mr. Kiebert** answered yes.

**Chairman Lodge** thanked **Mr. Kiebert** for appearing before the Committee and advised him that a vote on his appointment would be taken Wednesday, March 9, 2011.

**S1137** **Relating to Optometrists: Tana Cory**, Chief, Bureau of Occupational Licenses, stated this bill updates the appointment process to the State Board of Optometry to be consistent with the process used for most board appointments. The current process is cumbersome and costly to the licensees and causes delays in filling vacancies. It also provides that board members serve at the pleasure of the governor. The bill contains an emergency clause so balloting prior to the next vacancy is not required. She introduced **Jack Zarybnisky**, Chairman of the State Board of Optometry, who was attending the meeting. **Ms. Cory** requested the Committee send **S1137** to the floor with a do pass recommendation.

**Senator Bock** asked if this bill is making the process consistent with similar provisions from self-governing agencies. **Ms. Cory** replied yes.

**MOTION:** **Senator Smyser** moved, seconded by **Vice Chairman Broadsword**, to send **S1137** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Chairman Lodge** will sponsor **S1137** on the floor.

**S1138** **Relating to the Chiropractic Practice Act: Ms. Cory** stated this bill updates the appointment process to the State Board of Chiropractic Physicians to be consistent with the process used for most board appointments. The current process is cumbersome and costly to the licensees and causes delays in filling vacancies. It also provides that board members serve at the pleasure of the governor. The bill contains an emergency clause so balloting prior to the next vacancy is not required. **Ms. Cory** requested the Committee send **S1138** to the floor with a do pass recommendation.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send **S1138** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Darrington** will sponsor **S1138** on the floor.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Bock**, to approve the February 22, 2011 minutes as written. The motion carried by **voice-vote**.

**PRESENTATION:** **US Ecology-Overview: Jim Baumgardner**, President and CEO, US Ecology Inc., and **Simon Bell**, VP of Operations, US Ecology Inc., presented the US Ecology Overview. **Mr. Baumgardner** stated **Terry Geis**, Idaho General Manager, US Ecology Inc., could not make it to the meeting today as previously planned.

**Mr. Baumgardner** advised US Ecology, Inc. was founded in 1952 and headquartered in Boise, ID. They operate and own 5 hazardous and radioactive waste treatment and disposal facilities. They serve many customers, largely industrial companies throughout the U.S. and Canada. US Ecology, Inc. offers transportation, treatment, and disposal of hazardous waste materials. US Ecology, Inc. has had a drop in revenue in the last two years, not unlike many businesses have experienced because of the recession. They receive revenue from two sources. The first is base business which includes industrial facilities, steel mills, chemical plants, and refineries. The second is event business which includes clean ups. **Mr. Baumgardner** noted that big news for US Ecology, Inc. was the purchase of a facility in Blainville, Quebec. It was purchased for \$78 million and has revenues of \$38.5 million. The facility employs 150 people.

**Mr. Bell** spoke about the benefits from US Ecology to Idaho. US Ecology offers competitive benefits and wages. They employ 300 people in the state of Idaho and keep the majority of their capital expenditures here. US Ecology spent \$18 million in capital expenditures between 2005-2010. The majority of engineering and construction work was performed by Idaho Companies. **Mr. Bell** presented two charts one showing company-wide waste volume from 2001-2010 and the other showing Idaho state and county fees from 2001 to 2010.

**Mr. Bell** presented a photograph to the Committee of an aerial view of US Ecology's Grand View facility. The Grand View facility is located 70 miles South East of Boise near Grand View, Idaho. It is located in a fenced area of about 160 acres. US Ecology owns close to 14,000 acres of buffer zone surrounding the Grand View facility. **Mr. Bell** stated that there could not be a geologically better place to dispose of hazardous waste. The facility is located in a desert environment with very little water in the area and has an immense amount of clay underlying the facility. **Mr. Bell** presented the construction of a cell used at the Grand View facility for disposal. The cells were designed by the EPA and include 3 feet of clay and earth followed by two 80mil liners with collection systems between each layer. The water is routed away and no water ever leaves the area. Dusty waste is kept indoors and liquid waste is kept in steel tanks.

**Senator Bock** asked if **Mr. Bell** would clarify how the clay benefits the facility. **Mr. Bell** replied that the main benefit is the impermeability of the clay. It will not allow hazardous waste to leak through. The disposal area is designed with a top layer of river gravel. Under the gravel is a highly dense clay 500 feet deep and shale 1,500 feet deep. There is over 2,000 feet of solid clay and shale which prevents water from leaking out of the disposal site.

**Mr. Bell** stated a very important element to the Grand View facility is the rail transfer facility located off of Simco Road. Waste material is railed in and then trucked to the facility. The rail transfer station off of Simco Road can store 140 railcars. US Ecology is regulated by the Resource Conservation and Recovery Act (RCRA) administered by the DEQ, the Idaho Hazardous Waste Management Act (HWMA) administered by the DEQ, the Toxic Substance Control Act (TSCA) administered by the EPA, the Clean Air Act, the Department of Transportation, and the Occupation Safety and Health Administration (OSHA).

**Mr. Bell** spoke about US Ecology being an OSHA Voluntary Protection Program (VPP) Star Site. He stated that the VPP is a relationship with OSHA. US Ecology invites OSHA into their facilities and ask OSHA to give a critical review. To be a VPP Star Site you have to have an injury and accident rate well below the industry average. There are only 1,800 companies in the U.S. who have the OSHA VPP Star Site status. US Ecology gives back to Idaho in many ways. For the last 18 years US Ecology has offered a free service to residents of Mountain Home and Elmore County. For one day in October US Ecology will collect hazardous household waste for free. In 2010 they collected 17,220 pounds. For the last decade US Ecology has given back to the community through grants to charities and organizations. They average \$10,000 per year in grants to local non-profit organizations.

**Mr. Baumgardner** concluded the presentation. He stated the last few years have been difficult for US Ecology but there are better days ahead.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment 2).

**Senator Bock** asked what amount of hazardous waste in the U.S. is captured and disposed of safely. **Mr. Bell** answered that most industrial waste is captured. Most companies comply with regulations and make an effort. Household hazardous waste is a continuing challenge. There is a poor collection outlet for household hazardous waste. **Senator Bock** asked if progress was being made to reduce the amount of hazardous waste produced. **Mr. Bell** replied yes. The Resource Conservation Recovery Act was designed to help with this. **Senator Darrington** asked if it is true that US Ecology can collect all the water at the Grand View site up to cloud like proportions, without one drop leaving the site. **Mr. Bell** answered yes. The Grand View facility is a zero discharge facility and was constructed so that no water could escape. **Senator Darrington** asked if the Grand View facility is the second most regulated in Idaho and the Western United States and if the TSCA regulation is going away. **Mr. Bell** responded yes. Fifty years ago TSCA was the largest waste stream. Today, it is much smaller with 90%-95% already being disposed of. **Senator Darrington** asked if what was happening with energy in the U.S. this year would affect US Ecology. **Mr. Bell** replied that transportation is a big element to the disposal of hazardous waste. This is why the rail transfer station has had such a big impact for US Ecology. Simco Road improvement has also helped reduce the cost of transportation.

**Chairman Lodge** asked when Simco Road was paved. **Mr. Bell** answered between 2004 and 2005. **Vice Chairman Broadword** asked how many truckloads are on each railcar that come into the rail transfer station. **Mr. Bell** answered a railcar holds 100 to 180 tons. A truck carries about 33 to 34 tons so about 3 truckloads per railcar. **Vice Chairman Broadword** asked **Mr. Bell** to clarify why the presentation stated 104 people being employed in Idaho by US Ecology and later stated 300 people employed. He responded that 104 are employed at US Ecology, the others are contracted by US Ecology. **Senator Schmidt** asked what the life expectancy is of the Grand View facility. **Mr. Bell** replied greater than 50 years of staying generally within the 160 acres but the facility has room for expansion afterwards. **Senator Vick** asked if the Army Corps of Engineers is US Ecology's largest customer and what other customers US Ecology has. **Mr. Bell** answered yes, they represent about 15% of the business. The other customers include refineries, steel mills, brokers, industrial companies, and chemical companies. **Senator Vick** asked for an example of hazardous waste treatment. **Mr. Bell** answered that the waste is treated with reagents to balance the Ph level. It is tested to make sure the waste is no longer leachable and then mixed with clay to be placed in a landfill.

**Senator Bock** asked if waste reprocessing is done at the Grand View facility. **Mr. Bell** answered yes, there is some recycling done. Most of the waste received is not recyclable. Other US Ecology's facilities do more recycling. **Chairman Lodge** asked how much rainfall the Grand View facility received annually. **Mr. Bell** answered 7 inches. **Chairman Lodge** asked how many people from Owyhee County are employed at the facility. **Mr. Bell** replied 60 people are employed at the facility and 30-35 are out of Owyhee County. **Chairman Lodge** stated that US Ecology's community impact has been great. She invited the Committee members to tour the Grand View facility. **Mr. Bell** stated that a formal tour can be arranged at any time for any member interested. US Ecology is blessed with an amazing crew at the Grand View facility who hold a strong work ethic. **Senator Nuxoll** asked what the difference was between nuclear and radioactive waste and if the Grand View facility dealt with nuclear waste. **Mr. Bell** answered that nuclear waste is waste from a nuclear facility and radioactive describes the state the waste is in. **Senator Darrington** noted that US Ecology does not deal with nuclear waste.

**ADJOURNMENT:** **Chairman Lodge** thanked **Mr. Baumgardner** and **Mr. Bell** for their presentation. She wished **Senator Nuxoll** and **Senator Bock** a Happy Birthday and stated that a joint meeting with the House on the Medicaid budget would take place tomorrow at 1:30 p.m. in the auditorium and that there would be public testimony. There being no further business to come before the Committee **Chairman Lodge** adjourned the meeting at 4:17 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

JOINT  
SENATE HEALTH & WELFARE COMMITTEE  
AND  
HOUSE HEALTH & WELFARE COMMITTEE  
1:30 P.M.  
WW02  
Tuesday, March 08, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">H 221</a>	Medicaid Public Testimony	

***Sign In Begins at 12:30 p.m.  
If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
JOINT MEETING  
**SENATE HEALTH & WELFARE COMMITTEE**  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, March 08, 2011

**TIME:** 1:30 P.M.

**PLACE:** WW02

**SENATE MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**HOUSE MEMBERS PRESENT:** Chairman McGeachin, Vice Chairman Bilbao, Representatives Loertscher, Shepherd, Thayn, Wood(27), Guthrie, Roberts, Rusche, and Chew

**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.

**MINUTES:** **Vice Chairman Bilbao** called the meeting to order at 1:32 p.m.

**H221**

**Relating to Medicaid: Chairman McGeachin** presented **H221**, advising that her presentation is intended to give a bird's eye view of the legislation. She indicated that after her presentation the public would be invited to comment on the legislation and the Committees would have a chance to further discuss the details of the bill after receiving the public comments. This legislation is to reduce health care costs in the Medicaid budget and improve the health care delivery system in Medicaid. The proposed changes to the law will implement policies that should be changed or deleted temporarily because of the current economic situation, with the possibility of being continued later if they are found to be excellent business practices; permanently discontinue policies when they are poor business practices; discontinue benefit programs when the preponderance of scientific evidence does not support the outcomes; re-design certain optional programs to reflect those basic needs that are necessary to prevent elevated costs in other areas; propose to eliminate the fee-for-service healthcare delivery to a managed care approach which will focus on improved healthcare outcomes; remove all forms of self-referral by certain healthcare providers; maximize co-pays to the extent allowed under federal law to encourage personal responsibility; and provide structural support to implement changes.

**Chairman McGeachin** reviewed the changes in each section of the legislation referring to a chart setting forth estimated general fund savings applied to each anticipated change (see attachment 1). The projected fiscal impact will be a savings of \$39 million to the state general fund.

In response to questions from the Committee, **Chairman McGeachin** advised that the general fund savings together with federal matching fund results in a reduction of \$120,000,000 or approximately eight percent of the Medicaid budget. She noted that the reductions are predominately within the adult programs because federal laws limit what can be done with children's programs, and that the reductions have been structured to reach the requested budget reduction without elimination of whole programs. She stated that the assessments for the hospitals and nursing homes are existing and the assessments for intermediate care facilities are a new addition. **Chairman McGeachin** deferred a question relating to a possible drafting error in Section 28 of the bill to **Amy Johnson**, Principal Budget Analyst, Legislative Services Office, who responded that the language is correct and on July 1, 2012, the hospital and nursing care facilities assessment would return to the current law .

**GAVEL  
CHANGE:**

**Vice Chairman Bilbao** returned the gavel to **Chairman McGeachin** who stated that the Committee would begin hearing public testimony on **H221** and reviewed the rules of decorum for testifying in front of a committee.

**TESTIMONY:**

Those who spoke **in opposition** to **H221** included: **Vickie Garcia**, representing her family and clients; **Mark Reinhart**, representing himself and all people with disabilities; **Paula Marcotte**, Mental Health Providers Association; **Gregory Dickerson**, Administrator, Human Supports of Idaho; **Evangeline Beechler**, Program Director, Access Behavioral Health Services; **Laura Scuri**, Mental Health Providers Association of Idaho; **Kelly Keele**, a provider serving individuals with disabilities in Idaho for over 30 years; **Nikki Tangen**, Mental Health Providers Association of Idaho; **Lee Barton**, Provider of Mental Health Services; **Amy Korb**, Mental Health Providers Association of Idaho; **Kevin Nye**, representing his family; **Bob Brannen**, representing his son; **Crystal Andersen**, representing her son; **Taryn Ivie**, representing her daughter; **Sue Gann**, representing her brother; **Angie Martinez**, representing herself and her family; **John Chambers**, representing his son; **Connie Bunch**, representing herself; **Nicole Sherwood**, Developmental Concepts, Inc.; **Gretchen Kruger**, President, Idaho Residential Supported Living Association; **Karen Russell**, representing her son; **William Fowkes**, representing his family; **Jeanie Newman**, representing her family and clients; **Celina Collier**, representing her daughter; **Jennifer Roberts**, representing herself; **Heather Sue Rager**, representing herself; **Frank Roundy**, representing himself; **Louise Pryor**, representing herself; **Tom Kofed**, representing his son; **Carrie Bennett**, representing herself; **Sara Baugh**, representing her brother; **Louise Larsen**, CFH Provider; **James Piotrowski**, Attorney, Idaho Association of Residential Supported Living Agencies; **Michael Wilson**, Inclusion, Inc.; **Devere Hunt**, RHS, Mental Health Solutions; **M.C. Niland**, WITCO, Access Idaho; **Mike O'Bleness**, Development Workshop Inc.; **Roger Howard**, Executive Director, LINC; **Jim Baugh**, Disability Rights of Idaho; **Joe Raiden**; **James Steed**, Developmental Disabilities Council; **Robbi Barrutia**, Executive Director, SILC; **Paul Tierney**, representing his son; **Rosemary Smith**, representing her son; **Bill Benkula** WDB, Inc.; **Debbie Ferebauer**, representing her son; **Bob Blazor**; **Tonia Stephens**, representing her son; **Katherine Hansen**, President Idaho Association of Developmental Disability Agencies; **TeRonda Robinson**, Community Partnerships; **Wendy Kotts**, Unity Service Coordination; **Jack Hall**, representing himself; **Brian Procynchak**, representing himself; **Ken McClure**, Idaho Medical Association; **Kevin Thompson**, Community Partnerships; **Becky Woodhead**, Community Partnerships; **Carl Smith**, Community Connections; **Kimi Maas**, Community Partnerships; **Dwaine Sheets**; **Shawna Springer**; **Deborah Cunningham**, representing her son; **Dennis Smith**, The Joshua D. Smith Foundation; **Heather Bennet**, Excellence in Everyone LLC.; **Marilyn Sword**, Executive Director, Idaho Council on Developmental Disabilities; **Darlene Greenhauch**; **Deborah O'Hara**, representing herself; **Jennifer Varner**, Rocky Mt. Behavioral Health; **Terry Waltman**, representing his son; and **Kendra Hamlit**, representing herself.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary. (See attachment 2a through 2aa)

The main points from testimony in opposition to the bill were:

Concerns that transferring individuals from the Developmental Disability (DD) Waiver to the Aged and Disabled (A&D) Waiver at age 45 would lead to a loss of critical support and independence and that some individuals eligible for the DD Waiver would not qualify for the A&D Waiver; that many of those individuals prefer to continue contributing to the community rather than being a burden on the community.

Concerns regarding the reduction in assessment hours being too low to perform a correct diagnosis and that the required authorization by a psychiatrist for Psychosocial Rehabilitation (PSR) Services would slow down the treatment because of the lack of available psychiatrists.

Many providers indicated the reduction in services would likely lead to increased emergency room visits for non-emergency issues and ultimately be greater cost to the state outside the Medicaid budget.

Certified Family Homes and other providers felt they would be adversely affected and might have to close facilities and lay off employees resulting in a higher unemployment cost and food stamp benefits. This could also result in individuals being returned to Idaho State School and Hospital at a much higher cost to the state.

**TESTIMONY:** Those who spoke **in support** of **H221** included: **Steve Millard**, President, Idaho Hospital Association; **Rick Holloway**, President, Western Health Care; and **Robert Vande Merwe**, Idaho Health Care Association.

Although there was general support, some concerns were raised regarding managed care not fitting well with the skilled nursing population; the exemption of specialty hospitals; and removal of Skilled Nursing Facilities and Intermediate Care Facilities reimbursement system from the statute.

**ADJOURNMENT:** **Chairman McGeachin** announced that the House Committee will continue hearing **H221** on Thursday for further clarification from the Medicaid Department and will take action on the bill at that time. She welcomed comments and thoughts from the Senate Committee Members prior to that meeting. **Senator Darrington** thanked **Chairman McGeachin** for conducting the hearing with very good order and decorum and offered her the Committee's congratulations for her work. He further thanked the participants for the respect they showed the Committee noting that the Committee does understand the problems faced. The meeting was adjourned at 6:13 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Representative Janice McGeachin  
Co-Chair

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, March 09, 2011

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Vote</b>	<b>Kermit Kiebert</b> of Ponderay, ID, was appointed to the Board of Environmental Quality to serve a term commencing July 1, 2010 and expiring July 1, 2014.	
<a href="#"><u>H 164</u></a>	<b>Relating to Advisory Councils</b> - To revise the number of members of the Residential Care or Assisted Living Advisory Council; to revise the powers and duties of the Residential Care or Assisted Living Advisory Council; To revise the number of members of the Idaho Certified Family Homes Advisory Council.	Kris Ellis
<b>Presentation</b>	<b>Relating to Food Stamp Payments in Idaho</b>	Director Richard Armstrong

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, March 09, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:05 p.m. and welcomed guests.

**GUBERNATORIAL APPOINTMENT VOTE:** **Kermit Kiebert**, Ponderay, ID, was appointed to the Board of Environmental Quality to serve a term commencing July 1, 2010 and expiring July 1, 2014.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send the appointment of **Kermit Kiebert** to the Board of Environmental Quality to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Keough** will sponsor **Mr. Kiebert** on the floor.

**H164** **Relating to Advisory Councils:** **Kris Ellis**, stated the purpose of this legislation is to reduce the number of members on the Community Care Advisory Council from 22 down to 20 and to allow the makeup of the Community Care Advisory Council to be determined by the by-laws of the Community care Advisory Council. It also allows for alternative meeting formats, such as conference calls and video conferencing. **Ms. Ellis** requested the Committee send **H164** to the floor with a do pass recommendation.

**Vice Chairman Broadsword** stated that she had a problem not having a guarantee that the Director or State Ombudsmen would be involved on the Council.

**Ms. Ellis** advised that the Council is set up under the umbrella of the Department of Health and Welfare (DHW) and as the facilitator of the advisory councils in general DHW has authority over the Council. She deferred to **Randy May**, Deputy Administrator, Medical Division, for a further response. **Mr. May** stated that the Council has published by-laws which specify roughly the same makeup that is in the statute today; he will provide a copy for the Committee. He noted that the Ombudsman for the Elderly and he, as a representative of the Director, are on the Council. He explained the problem is that the Council meets quarterly and if there is a decision to change a rule they may not have an opportunity for a year to come before the legislature with needed changes.

**Senator Darrington** noted that the Chief Executive of State is burdened with many appointments to boards that are low profile; that he feels this legislation is appropriate; and that he does not see the need to go into code with this type of legislation.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Smyser**, to send **H164** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Vick** will sponsor **H164** on the floor.

**PRESENTATION: Relating to Food Stamp Payments in Idaho: Richard Armstrong**, Director, Department of Health and Welfare (DHW), provided a powerpoint presentation regarding the Food Stamp Payments in Idaho. He stated that eligibility requirements are determined by federal guidelines and paid for by the federal government. There is no sales tax on items purchased with food stamp benefits. The state of Idaho shares 50% of the administration costs. Food Stamp Benefits are loaded each month by state contractor, JP Morgan, onto an electronic debit card.

Today, the average Idaho participant receives \$130 a month in food stamp benefits which equals \$4.33 a day. The maximum benefit for a family of four is \$668 a month and the minimum is \$161. Half of all participants are children and 9% are elderly. Food Stamp Benefits are meant to supplement nutrition needs.

In 2007, 6% of Idahoans received Food Stamp Benefits, today 14.7% of Idahoans receive food stamps. One in four people in Canyon county receive food stamps. In 2007, \$8 million in food stamp benefits were provided and today that amount is at \$29.6 million. This equals a 260% growth rate since 2007. In 2001 each food stamp eligibility worker handled 104 food stamp benefit cases. Today, that ratio has increased six times to each eligibility worker handling 627 food stamp benefit cases.

Prior to 2009 DHW had a five day sequential issuance of food stamp benefits. There was confusion with this method and Idaho was ranked at the bottom of the states for poor performance in Food Stamp administration. In an effort to improve customer service and reduce confusion DHW revamped the food stamp process in 2009 and moved to a single day payment. As a result Idaho now ranks fourth best in the nation for low administrative costs.

Although Food Stamp recipients are happy with the shift and it has saved taxpayer dollars, the North West Grocers Association has requested Food Stamp Benefits be issued over multiple days to reduce inventory and personnel management issues. DHW feels the current operation is the best strategy for constituents, taxpayers, and the State, but recognize it negatively impacts the performance and profit of some grocers. DHW proposes meetings be held with grocers and community partners within the next two weeks to design a system that is permanent so the issue is not revisited again.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Schmidt** asked if the maximum amount for a family of four would also apply to a family of eight. **Director Armstrong** answered no. The formula used to determine food stamp benefit amounts takes into account the family size, income, and rent and utility expenses. **Senator Vick** asked if unemployment compensation counts as income. **Director Armstrong** replied yes. **Senator Vick** asked if college students were eligible. **Director Armstrong** deferred to **Rosie Andueza**, Food Stamp Program Manager, DHW, who stated that food stamp eligibility is more complicated for students. Not all students are eligible.

**Senator Smyser** asked if it is easier to get food stamp benefits in the state of Idaho, as compared to other states. **Director Armstrong** answered no, the qualifications are nationwide. **Senator Smyser** asked how long it takes to qualify and start receiving food stamp benefits. **Director Armstrong** replied 80% of cases are processed the same day, and recertification occurs every 6 months. **Vice Chairman Broadsword** asked if **Director Armstrong** anticipates the asset tests, put in place with rules this legislative session, will slow down the application process. He answered yes, the asset test will take longer. **Vice Chairman Broadsword** asked if DHW has considered changing the issuance system only in the counties with high food stamp usage. **Director Armstrong** stated DHW has discussed it, but they think it may be more costly.

**Senator Darrington** asked if there is a federal limit on administrative costs and what the cost is to Idaho. **Director Armstrong** deferred to **Russ Barron**, Welfare Administrator, DHW, who stated the federal match rate is 50% and he believes the total administrative cost last year was around \$17 million, with 50% of that being the State's cost. **Senator Smyser** asked if DHW is doing anything to help people learn new skills in regards to nutrition. **Director Armstrong** responded in unemployment situations, one requirement is to make an effort to be employed. Education on nutrition is taught through the Woman, Infants, and Children program (WIC) however there are no other mandatory programs. **Senator Smyser** stated that she feels it is time to step up as a state and educate people pro-actively when it comes to nutrition. **Senator Nuxoll** stated she believes people need to be taught proper nutrition and asked if the asset test will cut back on the number of people receiving food stamp benefits. **Director Armstrong** answered yes, by a rough estimate of 4%.

**Senator Heider** stated that from **Director Armstrong's** presentation it seems the amount of people on Food Stamp Benefits continues to rise and does not decline. He asked if people who start receiving food stamps, will eventually no longer need them or make an effort to stop using them. **Director Armstrong** replied that in 2006 there was a decline in food stamp applications and he hopes the independence of Idahoans will prevail over the tough economic times. **Senator Vick** asked if the value of an individual's home and the loan against that home is considered during the asset test. **Director Armstrong** deferred to **Ms. Andueza** who stated that a person's home is excluded.

**ADJOURNMENT:** **Chairman Lodge** left the meeting, passing the gavel to **Vice Chairman Broadsword** who thanked **Director Armstrong** for his presentation and stated that DHW has a good staff in the Food Stamp Benefits Program. She stated that there would be no meeting tomorrow and adjourned the meeting at 4:00 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Monday, March 14, 2011**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Gubernatorial Appointment Hearing</b>	<b>Mark P. VonLindern</b> of Lewiston, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.	Mark P. VonLindern
<a href="#"><u>H 2</u></a>	<b>Relating to Uniform Controlled Substances</b> - To revise and remove provisions relating to a prescription for a controlled substance; to revise and remove provisions relating to required prescriptions for scheduled drugs and to make technical corrections.	Mark Johnston
<a href="#"><u>H 3</u></a>	<b>Relating to Uniformed Controlled Substances</b> - To remove provisions relating to certain Schedule I controlled substances; to revise provisions relating to Schedule II controlled substances.	Mark Johnston
<a href="#"><u>H 4</u></a>	<b>Relating to Pharmacists</b> - Amending Section 37-3201, Idaho Code, to provide a correct code reference; amending Section 54-1705, Idaho Code, to revise definitions and to define a term; amending Section 54-1729, Idaho Code, to revise provisions relating to the registration of drug outlets doing business in Idaho and to make technical corrections; amending Section 54-1733, Idaho Code, to provide correct terminology; amending Sections 54-1761, 54-4702 and 54-5110, Idaho Code, to provide a correct code reference.	Mark Johnston
<a href="#"><u>H 182</u></a>	<b>Relating to the Board of Pharmacy</b> - Amending Section 54-1707, Idaho Code, to provide certain experience requirements.	Representative Susan B. Chew
<a href="#"><u>HCR 5</u></a>	<b>Stating Legislative Findings</b> and providing that in conjunction with this year's April Child Abuse Awareness Month that agencies and nonprofit organizations are encouraged to emphasize shaken baby syndrome as a leading cause of child abuse deaths in children less than one year of age, thereby educating Idaho citizens on this preventable tragedy.	Representative Wendy Jaquet and Representative Sharon Block

**Minutes  
Approval**

Minutes of the Meeting of February 24, 2011.

Senators Heider and  
Bock

**Minutes  
Approval**

Minutes of the Meeting of February 28, 2011

Senators Vick and  
Schmidt

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, March 14, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:08 p.m. and welcomed guests.

**GUBERNATORIAL APPOINTMENT HEARING:** **Mark P. VonLindern**, Lewiston, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012. **Mr. VonLindern** stated that he has served on the Panel previously and is grateful for the opportunity to serve again. He provided the Committee with a short biography of his professional and personal life

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Schmidt** stated that he was glad for the opportunity to meet **Mr. VonLindern** and asked what the Panel has done in the last few years. **Mr. VonLindern** replied that there have been a few issues the Panel dealt with, including the reapplication of the hazardous waste facility, at Grandview to put in a new cell and an issue with the Idaho National Laboratory (INEL). **Vice Chairman Broadsword** asked why **Mr. VonLindern** was coming before the Committee now after being appointed in 2009. He answered that he believes decisions were being made about the number of terms an individual could serve and whether he was eligible.

**Chairman Lodge** thanked **Mr. VonLindern** for appearing before the Committee and advised him that a vote on his appointment would be taken Wednesday, March 16th.

**H2** **Relating to Uniform Controlled Substances: Mark Johnston**, Executive Director, Board of Pharmacy, stated the proposed legislation amends the Controlled Substance Act to allow the electronic prescribing of controlled substances following the June 1, 2010 Drug Enforcement Administration (DEA) changes providing for the same under federal law. **Mr. Johnston** requested the Committee send **H2** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2a).

**Senator Schmidt** asked how many pharmacies in the State of Idaho are prepared for E-prescribing. **Mr. Johnston** replied that on June 1, 2010 the DEA put into affect changes allowing E-prescribing. However, the standards were very high and made it difficult for pharmacies to start. Pharmacies are not able to E-prescribe yet, but should be ready by this fall.

**MOTION:** **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, to send **H2** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Schmidt** will sponsor **H2** on the floor.

**H3** **Relating to Uniform Controlled Substances:** **Mr. Johnston** stated in accordance with Section 37-2714, Idaho Code, the proposed legislation updates Idaho's controlled substance schedules, as required by Sections 37-2702(d) and 37-2714, Idaho Code. **Mr. Johnston** requested the Committee send **H3** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2b).

**Senator Darrington** asked if legislation, such as **H3** is brought before the Committee annually from the Board of Pharmacy. **Mr. Johnston** responded that it will be done annually. Last year there was a large amount of changes because it had been a decade since the Board of Pharmacy had brought forward "house-keeping" legislation. **Senator Schmidt** asked if this legislation removed fentanyl from the list. **Mr. Johnston** replied no. A precursor to fentanyl is being added and other temporary precursors are being removed because the DEA discovered they had no biological reaction in the human body. **Senator Vick** asked why both **H2** and **H3** are necessary. **Mr. Johnston** answered that Idaho Code is stricter than Federal Code at times and that the Idaho State Police use this Code as guidelines.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Nuxoll**, to send **H3** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Bock** will sponsor **H3** on the floor.

**H4** **Relating to Pharmacists:** **Mr. Johnston** stated the proposed legislation updates the definitions of "drug order," "drug outlet," and "health care facility" in response to changes in the practice of pharmacy. The definition of "drug order" is simplified to contain only the necessary required components of a drug order. The definition of "drug outlet" includes all entities dispensing, delivering, and distributing drugs. Proposed Section 54-1729, Idaho Code, makes clear that all entities dispensing, delivering, and distributing drugs in or into Idaho must register with the Board of Pharmacy. The defined term "health care facility" is changed to "institutional facility." These clarifications are necessary given the diversity and number of outlets located outside of Idaho which do business in Idaho. The proposed legislation also strikes a provision (Section 54-1729. 02. b., Idaho Code) which provides an exception to the registration of individuals. The exception is in conflict with Section 54-1718, Idaho Code (requiring licensure of pharmacists), IDAPA 27.01.01.251 (requiring registration of pharmacy technicians), and IDAPA 27.01.01.100 (requiring registration of student pharmacists). **Mr. Johnston** requested the Committee send **H4** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2c).

**MOTION:** **Senator Smyser** moved, seconded by **Senator Darrington**, to send **H4** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Nuxoll** will sponsor **H4** on the floor.

**H182**

**Relating to the Board of Pharmacy: Representative Susan B. Chew** introduced **Taylor Nielson**, Director of Pharmacy, West Valley Medical Center, Idaho Society of Health-system Pharmacists (ISHP), who stated the purpose of the legislation is to amend Idaho Code 54-1707 to diversify the 5 member pharmacy board's pharmacy practice experience by specifying that at least 1 member have substantial experience in hospital pharmacy. **Mr. Nielson** requested the Committee send **H182** to the floor with a do pass recommendation.

**Senator Smyser** asked how many hospitals in Idaho include a pharmacy. **Mr. Nielson** answered that most do, except very small or rural locations. 25% of pharmacists have served in an institution. **Senator Smyser** asked if that meant 25% of pharmacists would be qualified to serve on the Board. **Mr. Nielson** replied that the legislation states that a "substantial" experience in a retail pharmacy setting and hospital pharmacy setting is needed. **Vice Chairman Broadsword** asked if it was necessary to put this in code and if this would limit the ability of the Governor to pick the best person for the job. **Mr. Nielson** stated that there was a period of time when there was no hospital pharmacist on the Board and this legislation will ensure there is always diversity. **Vice Chairman Broadsword** asked when this had happened. **Mr. Nielson** responded prior to 2007. He stated this legislation does not address any current issues, they are looking for an on-going statute to ensure the Board remains diverse. **Chairman Lodge** asked if this legislation should include an independent pharmacist on the Board as well. **Mr. Nielson** answered that they have an independent pharmacist on the Board now. However, the Idaho State Pharmacy Association felt it could be an undue hardship for an independent pharmacist to be on the Board because they receive no replacement for days missed while at meetings. There may be a lack of volunteers to serve on the Board from independent pharmacists.

**TESTIMONY:**

**Mr. Johnston** stated **Mr. Nielson** presented a version of this legislation to the Board in January, 2011. However, it was not this version. The Idaho Board of Pharmacy remains neutral on this legislation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 3).

**Senator Darrington** asked **Mr. Johnston** to tell the Committee who was on the Board and where their experience came from. From **Mr. Johnston's** information, **Senator Darrington** concluded that currently there was no diversity problem on the Board. **Mr. Johnston** stated there was a period of time, about a year, where only one hospital pharmacist was on the Board and he only worked in a hospital one day a week, which may not have counted as substantial experience.

**Sam Hoagland**, Attorney, President of ISHP, spoke **in support** of **H182**. He stated that ISHP has been attempting to get legislation such as this into code for a few years. This is an ideal time to pass this legislation while there is no issue or controversy.

**Chairman Lodge** stated that this legislation was brought before the Committee two years ago. **Vice Chairman Broadsword** asked why this legislation is necessary. **Mr. Hoagland** answered that if members on the Board had no hospital experience, the Board may make decisions that would impact hospitals without the necessary knowledge of the situation.

**Chairman Lodge** asked **Mr. Nielson** to address concerns raised during testimony. **Chairman Lodge** asked if **Mr. Nielson** had brought this version of the bill before the Board of Pharmacy. **Mr. Nielson** responded that one definition had been changed in the bill. The definition health-system was changed to hospital. The Committee discussed **H182**.

**MOTION:** **Senator Bock** moved, seconded by **Senator Schmidt**, to send **H182** to the floor with a do pass recommendation. A **voice-vote** was taken and the motion failed.

**HCR5** **Stating Legislative Findings: Representative Wendy Jaquet** stated this house concurrent resolution provides that in conjunction with this year's April Child Abuse Awareness Month that agencies and nonprofit organizations are encouraged to emphasize shaken baby syndrome as a leading cause of child abuse deaths in children less than one year of age which will help to educate Idaho citizens on this preventable tragedy. **Representative Jaquet** requested the Committee send **HCR5** to the floor with a do pass recommendation.

**TESTIMONY:** **Representative Jaquet** gave the Committee written testimony from **Brandi Whaley**, parent of a daughter who survived Shaken Baby Syndrome, in support of **HCR5**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 4).

**Representative Sharon Block** spoke in support of **HCR5** stating that Shaken Baby Syndrome is preventable and education is available.

**Michael Sexton**, MD, Director, Children At Risk Evaluation Services (CARES) program, spoke in support of **HCR5**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 5).

**Chairman Lodge** noted that most instances of shaken baby syndrome she is aware of involve young parents or boyfriends of mothers with young children and asked how we can bring education to this population. **Dr. Sexton** advised that when you look at enough numbers there is no one specific group that is immune to causing this kind of injury. It does occur in young children, those under the age of six months, and therefore more likely to involve young parents and perhaps parents without proper guidance from previous generations. He stated that hospitals have begun to educate young families about infant crying, which happens to be the number one trigger for parents to lose control, by advising parents that crying is normal and giving them alternative to losing control. He complemented **Ms. Whaley** for her efforts to take education to different organizations within the community. **Senator Darrington** asked if shaken baby syndrome was misdiagnosed often. **Dr. Sexton** replied that it is his job to be as sure as medically possible in making a diagnosis. In order to do that he must gather information about any incident preceding the injury and past medical information, interpret that information and rule out other possible causes of injury. **Senator Smyser** asked if a child could receive the same type of injuries as Shaken Baby Syndrome by falling. **Dr. Sexton** answered that it would be highly unlikely for a child who fell without being forced to have the same type of injuries as Shaken Baby Syndrome. The injuries are different.

Written testimony was given to the Committee from **Larry** and **Dana Sturgeon**, grandparents of a victim of Shaken Baby Syndrome and **Carissa Byers**, mother of a Shaken Baby Syndrome survivor, in support of **HCR5**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachments 6 and 7).

**MOTION:** Vice Chairman Broadword moved, seconded by Senator Schmidt, to send HCR5 to the floor with a do pass recommendation. The motion carried by voice-vote. Senator Schmidt will sponsor HCR5 on the floor.

**ADJOURNMENT:** Chairman Lodge stated H260, the bill on the Medicaid budget, was sent to the House floor and that there would be no Committee meeting tomorrow. She adjourned the meeting at 4:11 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Assistant Secretary  
Alyssa Horton

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, March 16, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Minutes Approval</b>	Minutes of the Meeting of February 16, 2011	Senators Smyser and Bock
<b>Minutes Approval</b>	Minutes of the Meeting of February 24, 2011.	Senators Heider and Bock
<b>Minutes Approval</b>	Minutes of the Meeting of February 28, 2011.	Senators Vick and Schmidt
<b>Minutes Approval</b>	Minutes of the Meeting of March 7, 2011	Senators Darrington and Bock
<b>Gubernatorial Appointment Vote</b>	<b>Mark P. VonLindern</b> of Lewiston, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.	

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
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Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, March 16, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/ EXCUSED:** Senator Heider

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Bock**, to approve the February 16, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Bock** moved, seconded by **Vice Chairman Broadsword**, to approve the February 24, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Vick** moved, seconded by **Senator Schmidt**, to approve the February 28, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Darrington** moved, seconded by **Senator Bock**, to approve the March 7, 2011 minutes as written. The motion carried by **voice-vote**.

**GUBERNATORIAL APPOINTMENT VOTE:** **Mark P. VonLindern**, Lewiston, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.

**MOTION:** **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, to send the appointment of **Mark P. VonLindern** to the Hazardous Waste Facility Siting License Application Review Panel to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Nuxoll** will sponsor **Mr. VonLindern's** appointment on the floor.

**ADJOURNMENT:** **Chairman Lodge** stated that the Committee would have a full schedule next week and adjourned the meeting at 3:08 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Thursday, March 17, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 165</u></a>	<b>Relating to Public Assistance</b> - Amending Chapter 2, Title 56, Idaho Code, by the addition of a new Section 56-209p,, to provide payment for midwife services and providing legislative intent.	Kris Ellis
<a href="#"><u>H 88</u></a>	<b>Relating to the Catastrophic Health Care Cost Program</b> Amending Section 31-3517, Idaho Code, to revise audit requirements and to make a technical correction.	Representative Darrell Bolz

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, March 17, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Nuxoll, and Schmidt

**ABSENT/ EXCUSED:** Senators Vick and Bock

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:06 p.m. and welcomed guests.

**H165** **Relating to Public Assistance: Kris Ellis**, Idaho Midwifery Council, stated currently there is not an option for women on Medicaid to use the services of a midwife. The purpose of this legislation is to allow a licensed professional midwife to be a Medicaid provider and to provide services for those clients who qualify for Medicaid, thereby saving the state general fund dollars. It is not the intent of this legislation to require anyone to utilize the services of a midwife. She presented a revised SOP indicating the fiscal impact would be up to \$116,000 if 1.9% of mothers who qualify for Medicaid choose the option of midwifery services. This includes a \$4000 set up fee of Molina to add midwives as providers. **Ms. Ellis** requested the Committee send **H165** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Heider** asked what the requirements are for the licensure of a midwife. **Ms. Ellis** responded that there is a national licensure curriculum that includes over 1,500 hours of clinical experience and an exam. **Vice Chairman Broadsword** asked if a waiver of liability signed by the parents who choose a midwife is part of this legislation or if it could be later on. **Ms. Ellis** replied that this legislation will require rules to be developed to address the waiver of liability, the reimbursement rates, and other issues. **Senator Darrington** asked if the mother would already be medicaid eligible and receiving other services before choosing a midwife. **Ms. Ellis** answered yes, a mother would have to be medicaid eligible, but many mothers do not apply for medicaid until after the baby is born. **Senator Darrington** asked if the \$100,000 savings stated in the fiscal note would come from a reduction of c-sections with the use of a midwife. **Ms. Ellis** responded yes, the figure was obtained by using the percentage of c-sections and comparing it with rates for midwives. **Senator Darrington** asked if **Ms. Ellis** viewed many c-sections performed in hospitals as unnecessary. **Ms. Ellis** replied that statistics show many c-sections are unnecessary and they are used as a convenience for parents.

**Vice Chairman Broadsword** asked if prenatal care with a midwife was considered in the fiscal note. **Ms. Ellis** answered yes; prenatal, birth, and postnatal care visits are included. **Senator Darrington** asked if this medicaid program was an optional program that the state can opt into through the federal medicaid program and if the State of Idaho would have full control of the rules developed should this legislation be passed. **Ms. Ellis** answered that this is an optional program without a federal mandate, therefore without a federal match. The development of rules will be entirely up to the state. **Senator Darrington** suggested **Ms. Ellis** consider the unintended consequences from this bill and discuss them with Committee after listening to testimony. **Vice Chairman Broadsword** asked **Ms. Ellis** to clarify when medicaid will pay for delivery. **Ms. Ellis** stated that Idaho is responsible to pay for births under Medicaid. Midwife delivery is optional, not federally mandated, and therefore no matching funds would be available. However, if there is a transfer of a birth to a hospital, there would be a federal match.

**TESTIMONY:**

**Teresa Acheson**, Certified Professional Midwife, Idaho Midwifery Council, spoke **in support of H165**. She stated midwives do not handle births that involve risk. Midwife care is for women who are low risk only. Midwives are involved with their patients and spend at least an hour with each patient during their prenatal and postnatal care visits.

**Michelle Bartlett**, Licensed Midwife, Vice President, Idaho Midwifery Council, spoke **in support of H165**. She stated that she has been contacted by many women on Medicaid who would prefer to use a midwife. **Ms. Bartlett** presented a letter from **Tenise Wertman**, a pregnant mother currently on Medicaid who has used the services of a midwife before. The letter stated **Ms. Wertman's support of H165**.

**Vice Chairman Broadsword** asked if insurance companies that cover midwife services require licensure from the midwives. **Ms. Bartlett** answered that some of them do, others are okay with certification alone. **Chairman Lodge** asked if blood tests and ultrasounds were included in the fiscal note. **Ms. Bartlett** replied yes, many midwives do ultrasounds and blood tests themselves, while others contract out to agencies. **Chairman Lodge** asked how Idaho midwives intend to encourage women on Medicaid to use midwifery services. **Ms. Bartlett** responded that the midwife clientele is self-selected. Some advertising is done, but there are certain types of women who will choose a midwife. **Senator Nuxoll** stated that she chose a midwife for the birth of her last child and wishes she had chosen one for her previous children. **Senator Darrington** asked how midwives handle the risk associated with older women having a baby. **Ms. Bartlett** answered that although there is a higher risk of birth defects in mothers over the age of 35, older mothers tend to be more responsible and take better care of themselves. **Chairman Lodge** asked how many prenatal care visits are recommended. **Ms. Bartlett** replied the same as a woman would with a doctor. Once a month for the first 28 weeks, then once every 2 weeks from 28 weeks to 36 weeks, and finally once a week from 36 weeks until the birth of the baby.

**Paul Leary**, Division of Medicaid, Department of Health and Welfare (DHW), stood to address questions from the Committee on behalf of the Division of Medicaid. **Chairman Lodge** asked what **Mr. Leary's** opinion is on the unintended consequences of this legislation. He answered unintended consequences from a fiscal standpoint would come from complications during birth because the birth is not federally covered. **Chairman Lodge** asked how the rules would be developed. **Mr. Leary** responded that they would use a negotiated rulemaking process and confer with the Deputy Attorney General. **Vice Chairman Broadsword** asked if a medicaid birth by a physician would be treated different than a medicaid birth by a midwife. **Mr. Leary** replied that he is not sure. **Senator Schmidt** asked if a medicaid birth in a hospital by a physician is paid by state medicaid and matched by federal dollars and if a midwife birth at home is paid by state medicaid but not

matched. **Mr. Leary** answered yes. He stated if this bill were to pass, the division of medicaid would look for a way to fund this program and an opportunity for a federal match. **Senator Heider** asked if the children would be put at risk by not having funding for complications during a midwife birth. **Mr. Leary** responded no, the child would be covered.

**Vice Chairman Broadsword** asked how much using a doctor costs the general fund and if it was less than \$1500. **Mr. Leary** answered a normal delivery costs a total of \$5000 with 30% coming from the general fund which is equal to \$1500. **Senator Darrington** asked how using a midwife would save money if we cannot fund this program. **Mr. Leary** replied that he cannot answer that yet because he has not done the research on information from Idaho birth rates. **Vice Chairman Broadsword** asked if ultrasounds are included in the \$5000 cost of normal deliveries. **Mr. Leary** answered yes. The \$5000 includes the physician and hospital components. The doctor is paid \$1,540 for prenatal, birth, and postnatal care. **Vice Chairman Broadsword** noted that a hospital will send a bill to Medicaid on top of the doctor fee and a midwife would not include any fee other than their own. **Mr. Leary** stated that is correct.

**Chairman Lodge** asked **Ms. Ellis** to address concerns raised during testimony. She stated that the fiscal note research was not done with a global percentage rate on c-sections but the public records request from Medicaid. After the federal match, the savings by a midwife birth is about \$350. **Ms. Ellis** noted that Washington saved \$477,000 yearly by adding this midwife option and only 1% of Medicaid patients used this program. In New Mexico 30% of Medicaid patients choose a midwife. The Idaho Board of Midwifery will track the savings if this bill is passed. **Senator Darrington** stated that he has seen unintended consequences from legislation affect the State of Idaho before and he is cautious about this happening again. **Ms. Ellis** stated that the Board would track savings and cost.

**Senator Nuxoll** stated she has been around midwives often and there are good midwives and bad midwives the same as there are good doctors and bad doctors. From what she has seen, most midwives are very careful and if they see any risk in a patient, they send them to the doctor. Using a midwife is a woman's choice and since it will not negatively affect the general fund, there is no reason not to give women on Medicaid this choice.

**MOTION:**

**Senator Nuxoll** moved, seconded by **Senator Heider**, to send **H165** to the floor with a do pass recommendation. **Senator Darrington** noted the negative reflection this has on the rate of c-sections and the medical community. **Senator Smyser** stated that there are many studies for high c-section births and U.S. c-section rates are much higher in comparison to other countries. The motion carried by voice-vote. **Vice Chairman Broadsword** will sponsor **H165** on the floor.

**H88**

**Relating to the Catastrophic Health Care Cost Program: Representative Darrell Bolz** stated the purpose of this legislation is to amend I.C. 31-3517 by amending the audit requirements for the Catastrophic Health Care Cost Program. It requires an annual audit by a certified public accountant designated by the governing board. **Representative Bolz** requested the Committee send **H88** to the floor with a do pass recommendation.

**Vice Chairman Broadsword** noted the legislation states that an audit must be done by a certified public accountant and asked if that is a change from what was previously done. **Representative Bolz** answered no, that is the current law.

**MOTION:** **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, to send **H88** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Schmidt** will sponsor **H88** on the floor.

**ADJOURNMENT:** **Chairman Lodge** stated the Committee would see the bill on the Medicaid budget next Tuesday, March 22nd and the bill on Child Care next Wednesday, March 23rd. She adjourned the meeting at 4:06.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Monday, March 21, 2011

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 162</u></a>	<b>Relating to Hospital Licenses and Inspections</b> - Amending Section 39-1392c, Idaho Code, to revise civil liability immunity provisions for health care organizations or other persons, to provide an exception and to revise disclosure requirements; and providing legislative intent.	Steve Millard
<b>Minutes Approval</b>	Minutes of the meeting of March 3, 2011.	Senators Broadsword and Schmidt

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, March 21, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed guests.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Schmidt**, to approve the March 9, 2011 minutes as written. The motion carried by **voice-vote**.

**H162** **Relating to Hospital Licenses and Inspections: Steve Millard**, President, Idaho Hospital Association (IHA), stated current Idaho law provides immunity from civil lawsuits for health care organizations that utilize a "peer review" process for quality assurance, credentialing, privileging and professions review actions. The success of any peer review process depends entirely upon the participation of health care professionals and their open and candid assessments. Because health care professions are largely volunteers in the peer review process, a lack of immunity from civil suits stifles the process and the quality of the results. Despite language in the current statute providing immunity for the use of such peer review information, a recent Idaho Supreme Court ruling (*Harrison v. Binnion*) construed the statute very narrowly. The statute should be clarified to re-express the original intent of the legislature when the current statute was passed. The sanctity of the peer review process is crucial and must be protected. **Mr. Millard** requested the Committee send **H162** to the floor with a do pass recommendation.

**Vice Chairman Broadsword** asked if the difference between this bill and the legislation brought before the Committee last year is line 14 - line 21. **Mr. Millard** answered yes, wording on lines 11-12 has changed as well to come to agreement with a group of physicians who were members of the Idaho Medical Association (IMA). **Senator Schmidt** asked how the Committee will know that this bill is not about employed physicians versus private physicians. **Mr. Millard** replied that this bill would not change anything. If the bill is passed, the peer review process will continue in the same way. **Senator Nuxoll** asked if anyone opposed this bill. **Mr. Millard** responded that many people are signed up to testify in opposition in front of the Committee today. **Senator Bock** asked **Mr. Millard** why he thinks people are opposing this bill. **Mr. Millard** answered that some people think the conglomerate hospital is trying to take over. Also, some believe physicians need peer review information in order to prove themselves in a court of law.

**Senator Vick** asked if a doctor can be sued for his/her actions on a peer review committee if this bill is not passed. **Mr. Millard** responded he would not say that they could be sued, but they are subject to be dragged into court to testify about their actions. **Senator Vick** asked how many doctors in Idaho lose their credentials annually. **Mr. Millard** replied that he does not have the exact number, but he knows it is a very small amount. **Senator Bock** noted that some language from **H162** and Idaho Code, Section 39-1392(b) is redundant. He asked why we need the language in **H162**. **Mr. Millard** responded that the language is redundant and was added to satisfy people who opposed the bill without it.

**TESTIMONY:**

**Portia Rauer**, Attorney representing a group of physicians, spoke **in opposition** to **H162**. She stated this bill will give hospitals an unfair advantage. She presented materials related to the opposition of **H162**. This material included the *Harrison v. Binnion* decision, sampling of statutes from neighboring states, *Laurino v. Syringa Hospital*, *Miller v. St. Al's*, a 1973 Statement of Purpose for the original peer review statutes, and an article from the Idaho Business Review, dated March 18, 2011.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Bock** asked **Ms. Rauer** why she thought redundant language from Idaho Code, Section 39-1392(b) was put into **H162**. She replied that she cannot speak for others, but the physicians who opposed this language being included in the amendment, did so because they felt it takes away their ability to access information that they were entitled to. **Senator Darrington** asked **Ms. Rauer** if she believes this bill will put the process back to where it was before the court case, *Harrison v. Binnion*. She responded no, before that case hospitals did not have immunity. The position of the group she represents is that hospitals have never had immunity. **Senator Darrington** asked if the group **Ms. Rauer** represents includes physicians from hospitals and private practices, physicians who have served on a peer review and those who have not, as well as physicians who have lost credentials from the peer review process and those who have not. She answered yes. **Senator Schmidt** asked if a fair hearing process was involved whenever a physician's credentials were adversely affected after a peer review. **Ms. Rauer** replied that is correct. However, this happens from within the hospital and there seems to be a bias against the physicians by the hospital.

**Senator Vick** asked if **Ms. Rauer** was aware of the number of physicians losing credentials yearly from the peer review process. She responded that she also does not have the exact number, but knows they have increased in recent years. **Senator Bock** stated that Idaho Code, Section 39-1392(b) protects immunity and Section 39-1392(c) would prevent physicians from accessing information that would protect them against bad decision making and asked if **Ms. Rauer** agreed. She answered yes.

**Jeremy Pisca**, Attorney representing Saint Al's, spoke **in support** of **H162**. He stated that this bill has a simple objective and that is to restore the law to the way it was intended to be. Physicians are cautious about serving on a peer review because they do not feel safe.

**Senator Nuxoll** asked what the split decision was and where **Chief Justice Dan Eismann** was on the decision, in regards to the *Harrison v. Binnion* case. **Mr. Pisca** stated that **Chief Justice Eismann** wrote the opinion, a dissenting opinion was written by **Justice Joel Horton** and **Judge Cheri Copsey** concurred with **Justice Horton**. **Senator Nuxoll** asked what the vote was. **Mr. Pisca** answered 4:1, with two dissenting opinions.

**Michael Haggar**, Neurosurgeon, Director of Neuroscience Associates, spoke **in opposition to H162**. He stated this bill sets up a conflict of interest for hospitals and physicians. Physicians and hospitals compete and this will give the hospitals an advantage. This bill will allow the hospital peer review to de-credential someone without telling them why.

**Senator Darrington** asked if **Dr. Haggar** thinks the physicians in a hospital are pressured by their employer or act independently because they are hospital employees to show a bias toward non-hospital employed physicians. **Dr. Haggar** responded no. Under his department and the peer review that he has managed this has never happened, but this bill will set up the potential for that to happen. **Senator Vick** asked why the vote to pass this bill passed unanimously through the IMA and where were the physicians who opposed it. **Dr. Haggar** responded that he was not privy to any meetings, but was told that it was not a unanimous decision. **Vice Chairman Broadword** asked how **Dr. Haggar** was made aware of this legislation and if he took his concerns to the IMA. He answered yes. He is a member of the IMA and receives e-mail correspondences which is how he became aware of this legislation.

**Joseph H. Williams**, Urological Surgeon, Idaho Urological Institute, spoke **in support of H162**. He stated he was present at the IMA meetings about this legislation and is happy to be a part of this process.

**Senator Schmidt** asked **Dr. Williams** his opinion on how often a physician's credentials are suspended, revoked, or denied. **Dr. Williams** answered that he has 40 years experience and has only been involved in cases where credentials were suspended, never in one where they were removed. **Senator Vick** asked if **Dr. Williams** has seen a reluctance to participate on peer review boards since the *Harrison v. Binnion* decision. **Dr. Williams** replied no, but he personally will not participate on a peer review decision since the *Harrison* decision because he feels there would be a risk to himself. **Vice Chairman Broadword** asked if hospitals will use this bill to compete with private physicians. **Dr. Williams** responded that there is a low potential for that happening.

**John Livingston**, general surgeon and trauma surgeon, spoke **in opposition to H162**. He stated that he has been involved in the peer review process. Three cases were brought to **Dr. Livingston's** attention where the peer review process was initiated by a major hospital against independent physicians. Two of these three cases resulted in the physicians having their credentials removed. In the other case, the peer review committee, the credentials committee, and the serving review committee recommended that the governing board not have the physicians credentials amended or removed. His credentials were amended anyway and it has been detrimental to his practice.

**Senator Heider** asked if after the cases **Dr. Livingston** mentioned, the physicians were allowed to continue to practice. **Dr. Livingston** answered no, not in the two cases where credentials were removed.

**Kenny Bramwell**, emergency physician, St. Luke's, spoke **in support of H162**. He stated this bill will restore the law and allow physicians to serve in the peer review process without fear.

**Vice Chairman Broadword** asked if a physician had been drinking, was called in to operate during an emergency situation and the patient died, would that kind of action be something brought before a peer review. **Dr. Bramwell** answered yes. **Senator Bock** asked how **Dr. Bramwell** feels about the fact that if the bill states a physician has the right to challenge a decision, but they cannot access information from the peer review that could help them, does he feel that is contradictory. **Dr. Bramwell** replied that as he understands it, the peer review process has always been confidential and cannot be used in a court of law. Three questions can be asked about the peer review in a court of law and they are: was the case reviewed by a peer review, was a decision reached by the committee, and were actions taken against the physician's credentials.

**Ray Powers**, Attorney, who represents physicians and hospitals in medical malpractice matters, spoke **in opposition** to **H162**. He stated this bill will eliminate a physician's ability to challenge an adverse decision.

**Senator Heider** asked if **Mr. Powers** felt not passing this bill would open up the doctors and hospitals involved in the peer review process to a legal suit. **Mr. Powers** replied no, there is no mechanism available in the courts to allow this to happen. The court will keep all the information used in a case privileged and confidential. **Senator Nuxoll** asked if any other organization has immunity like the hospitals. **Mr. Powers** answered no, he is not aware of any.

In response to questions from the Committee, **Mr. Powers** stated he has seen two types of peer reviews evolve in the medical community. The first type is the typical form of peer review; when there is a problem with care, physicians sit down, discuss it, and find a way to improve it. The second type is punitive. It is intended to take away a physician's credentials. He believes the prior statute allows an individual to challenge the decision of the second kind of peer review because it is different from the first.

**Alan Swajkowski**, MD, Chief of Staff, St. Luke's, spoke **in support** of **H162**. He stated that he has been involved in the peer review process and it is not a bad process. The peer review process is used to assure quality of care.

**Senator Bock** asked **Dr. Swajkowski** if he acknowledges that people who sit on peer review committees can make mistakes. **Dr. Swajkowski** answered yes, if there is an adverse outcome during a peer review, the physician in question is invited to the peer review committee to state their case. Measures are taken to protect the physician's rights. **Senator Schmidt** stated that the peer review process **Dr. Swajkowski** is involved in sounds very diligent and thorough. He asked why **Dr. Swajkowski** does not want the information from the committee to be public if they are so thorough. **Dr. Swajkowski** replied that it is not necessary and would not help the general public.

**Julie Harrison**, representing herself, spoke **in opposition** to **H162**. She stated that the bill is congested, unclear, and will give hospitals complete immunity.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

**Christy Newcoff**, General Counsel, St. Luke's Health System, spoke **in support** of **H162**. She stated that immunity is not unheard of in Idaho law. This bill is about protecting the peer review process.

**Lee Self**, OB-GYN, Eagle, ID, spoke **in opposition** to **H162**. She stated that she has serious concerns about a bill that gives a hospital immunity. Physicians should be allowed due process.

**Senator Darrington** asked if **Dr. Self** believes the peer review process has been used to further economic credentialing. **Dr. Self** replied yes.

**Tom Lark**, Anesthesiologist, spoke **in opposition** to **H162**. He stated he was at the IMA meetings on this legislation and there was definite opposition to this bill.

**Frank Clark**, Administrator, Neuroscience Associates, spoke **in opposition** to **H162**. He stated that there is a duty to the public to share information because of the tax exempt status of a non-profit organization.

**Nick Genna**, Administrator, Treasure Valley Hospital, spoke **in opposition** to **H162**. He stated that Idaho will be the only state to allow this immunity to the hospitals if this bill passes.

**Rich Manos**, Orthopedic Spine Surgeon, spoke **in opposition** to **H162**. He stated an individual should be able to hear evidence against them.

**Ken McClure**, Attorney representing IMA, spoke **in support** of **H162**. He stated a physician under review by the peer review has full knowledge of the process.

**Vice Chairman Broadsword** asked **Mr. McClure** if this bill would prevent physicians from getting information about a peer review decision that affects them. **Mr. McClure** responded that a physician will have access to that information.

Written testimony **in opposition** to **H162** was presented to the Committee from **Tim Doerr**, M.D.

**Chairman Lodge** asked **Ms. Rauer** to state any closing testimony she would like to include. **Ms. Rauer** stated the physicians who oppose this bill want their day in court and they want access to the information that they currently have access to. Their ability to earn a living is incumbent upon the passage of this bill.

**Chairman Lodge** asked **Mr. Millard** to address concerns raised during testimony. **Mr. Millard** stated that this bill is not about taking away from physicians or ruining their careers. It is about clarifying statute.

#### **MOTION**

**Senator Darrington** moved, seconded by **Vice Chairman Broadsword**, to send **H162** to the floor with a do pass.

**Senator Vick** stated that this is not an easy decision for him and he will not support this legislation. **Senator Nuxoll** noted that if there is any doubt, the Committee should follow the lead of the Supreme Court. An individual should be able to access this information and use it in a court of law. Idaho should not be different than any other state. **Senator Nuxoll** stated she would not be supporting this legislation. **Vice Chairman Broadsword** acknowledged that the purpose of the legislature is to determine legislative intent and she will support this motion. **Senator Schmidt** noted he is in favor of a strong peer review process and will support this legislation.

#### **VOTE:**

The motion carried by **voice-vote**.

#### **ADJOURNMENT:**

There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 5:50 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Tuesday, March 22, 2011

SUBJECT	DESCRIPTION	PRESENTER
Presentation	<b>Idaho Criminal Justice Commission</b> - Briefing regarding S 1154, relating to proposed changes to the way Idaho manages sex offenders; and H 235, seeking to enhance Idaho gang laws.	Director Brent D. Reinke
<a href="#">H 260</a>	<b>Relating to Medicaid</b> - Public testimony has already been received. Committee will be reviewing and voting on the bill.	Representative Janice K. McGeachin and Senator Patti Anne Lodge

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Tuesday, March 22, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed guests.

**PRESENTATION: Idaho Criminal Justice Commission: Brent D. Reinke**, Director, Idaho Department of Corrections (IDOC), Chairman of Idaho Criminal Justice Commission (ICJC), began the ICJC presentation including a briefing regarding **S1154** and **H235**. He provided the Committee with a document from ICJC showing the strategies for 2011.

**Director Reinke** introduced **Steve Bywater**, Office of the Attorney General. **Mr. Bywater** discussed **S1154**. He stated Idaho amended sex offender laws in 1998 to create a violent sexual predator (VSP) designation. The VSP designation was challenged in *Smith v. Idaho*. In 2009 the Idaho Supreme Court ruled in favor of *Smith*, holding that the VSP designation was unconstitutional and violated offenders' due process. **S1154** will do three things. The first thing is it will allow Idaho to retain the 53 individuals currently designated as VSPs under a grandfather clause, while eliminating the unconstitutional VSP designation. The second thing it does is create a board charged with implementing best practices in sex offender management in Idaho, the Sex Offender Management Board. The third thing it does is add more accountability for sex offenders under the current registration system.

**Ellie Somoza**, Deputy Prosecutor, Canyon County, ID, presented the update on **H235** to the Committee. She stated **H235** is about gang suppression. This bill will add additional crimes to the original legislation to establish a pattern of criminal gang behavior. Injury by graffiti, human trafficking, disturbing the peace, malicious injury to property, sexual abuse under the age of 16 years, sexual exploitation of a child, lewd contact with a minor child under 16 years, and sexual battery of a child will be added. Also, crimes committed while incarcerated such as: escape, riot, or injuring jails will be added. **H235** will also change the punishment for gang members. The bill includes a 2 to 5 year enhancement for gang related crimes.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Chairman Lodge** asked if rural areas in Idaho need to be more aware of gang activity. **Ms. Somoza** answered yes. Increased pressure from the law in larger towns has caused gang members to spread out into more rural areas. **Senator Nuxoll** asked **Ms. Somoza** if gang members had a certain appearance or style of dress. **Ms. Somoza** stated that while there is no one way for a gang member to look, most gangs use certain colors to signify the gang. Gang members tend to wear baggy clothing, have goatees, or tatoos visible. Motorcycle gang members are known for looking less clean-shaven. **Senator Nuxoll** asked if **Ms. Somoza** could easily recognize a gang member on the street. **Ms. Somoza** replied yes, based on her years of experience, she could. **Senator Heider** asked if it will be a disservice to Idaho to enhance sentences for gang members because it could cause overcrowding in the jails. **Ms. Somoza** answered the increased sentences would be used as a negotiation tool most of the time and the actual number of enhanced sentences would be small. **Senator Bock** stated that it is difficult to prove gang connection.

**Senator Smyser** asked about the recidivism rate of gang members. **Ms. Somoza** answered that she does not have actual statistics but in her experience the number is very high. **Senator Smyser** asked if there are many cases of gang members being illegal aliens and how those are treated. **Ms. Somoza** responded that in her experience as a prosecutor she has handled only one gang member case that involved a question of immigration status. Illegal aliens are charged, do their time, and then are deported. Most gang members in Idaho are U.S. residents. Illegal aliens are more involved in the drug cartels. **Chairman Lodge** stated that she had seen very disturbing pictures of gang members standing over their fellow gang member's coffins and flashing gang symbols. They are willing to die for their gang.

**Director Reinke** introduced **Kieran Donahue**, Detective, Canyon County Sheriff Office. **Detective Donahue** stated he has been on loan to the F.B.I. here in Boise on a task force called Treasure Valley Violent Crime and Gang Task Force. The task force was put together because of the large amount of gang issues occurring in the early 2000's. During that time there were approximately 200 shootings in Canyon County in a 6 month period. The job of the task force is to investigate violent crime and gang activity. There are no jurisdictional boundaries for the task force because they are deputized federally and by the State. The task force uses various methods to infiltrate gangs.

**Chairman Lodge** thanked **Detective Donahue** for the work he does. She stated that as a teacher she has seen the gang problem in schools. **Detective Donahue** noted that without the help of **Chairman Lodge**, **Senator Darrington**, and **Senator McGee** the task force could not be doing what it does. **Senator Nuxoll** asked if there are gang members in every high school in Idaho. **Detective Donahue** answered yes, without exception. He stated that he has had his children in private schools at one time and has seen gang activity there as well.

**H260**

**Relating to Medicaid: Representative Janice McGeachin** stated the purpose of this legislation is to reduce health care costs in the Medicaid budget and improve the healthcare delivery system in Medicaid. The proposed changes to the law will implement policies that should be changed or deleted temporarily because of the current economic situation, with the possibility of being continued later, because they are found to be excellent business practices; permanently discontinue policies when they are poor business practices; discontinue benefit programs when the preponderance of scientific evidence does not support the outcomes; re-design certain optional programs to reflect those basic needs that are necessary to prevent elevated costs in other areas; propose to eliminate the fee-for-service healthcare delivery to a managed care approach which will focus on improved healthcare outcomes; remove all forms of self-referral by certain healthcare providers; maximize co-pays to the extent allowed under federal law to encourage personal

responsibility; provide structural support to implement changes. The fiscal impact is projected to be a savings of \$34 million to the state general fund.

**Representative McGeachin** stated that after listening to public testimony on the original Medicaid budget legislation the House Committee and the Division of Medicaid, Department of Health and Welfare (DHW), went over the bill and removed three issues that really stood out. The three issues removed were the requirement for a board certified psychiatrist to sign off on all psycho-social rehabilitation (PSR) services, the removal of all non-waiver adults from developmental therapy, and the retirement age of 45 for the active treatment of developmental therapy.

**Representative McGeachin** requested the Committee send **H260** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

**Senator Darrington** noted the amount of time **Representative McGeachin** has devoted to learning about Medicaid and thanked her for her hard work. He stated people from nursing homes around Idaho are concerned about the reimbursement rate and the fact that it was put into rulemaking. He asked where this is in the bill and why it was done. **Representative McGeachin** thanked **Senator Darrington** for his comments and deferred to **Leslie Clement**, Administrator, Division of Medicaid, DHW. **Ms. Clement** stated page 2, section 2 is the area where nursing home reimbursement is repealed from Idaho Code. This was done to stop auto-inflation from occurring. There will be no methodology changes, but the responsibility will be on DHW to annually bring forth adjustments. **Senator Darrington** noted something of this magnitude would be done through negotiated rulemaking with the providers present. **Ms. Clement** stated there would not need to be rule changes next year.

**Vice Chairman Broadsword** asked **Ms. Clement** to address the concerns about Certified Family Homes (CFH) being unduly targeted by these cuts. **Ms. Clement** stated that individuals had been told that in this legislation the payment for CFHs would be reduced or eliminated. That is not what is happening. DHW followed up with some constituents to clarify what was actually in the bill. The bill allows the DHW to follow up with the process, charge new applicant fees, and fees for recertification. **Vice Chairman Broadsword** asked if other types of providers pay fees for recertification or new applications. **Ms. Clement** replied no, most medical facilities do not. **Senator Nuxoll** asked if the process for CFHs will be reviewed to ensure it is working correctly. **Ms. Clement** answered that it is a challenge for DHW to get this done. Medicaid staff is working to find a more efficient way to do this. **Senator Darrington** asked if this bill would repeal the prospective reimbursement process. **Ms. Clement** replied the process exists in the rules and this will not do away with that method.

**Senator Vick** asked if this bill will affect children's programs. **Ms. Clement** responded that under federal Medicaid laws, Medicaid children have special entitlements. If a service is medically necessary, they will receive it regardless of whether it is in our State's program. Caps set for Medicaid services for children are always soft-caps. All reductions in this bill are related to adults. **Senator Vick** noted the removal of audiologist services and asked if those services could be brought back at a later time and if so would the law have to be changed in the process. **Ms. Clement** answered yes, in this instance the law would have to be changed. **Senator Schmidt** asked if there is a way to measure the impact of the reduction in services this bill could cause. **Ms. Clement** replied that she believes so. The work in front of Medicaid will be to find a way to do this. They need to conduct cost analysis for different populations and create a management approach. **Representative McGeachin** stated that it has been an honor working with everyone on this legislation and thanked the Committee for all the hard work.

**MOTION:** **Senator Heider** moved, seconded by **Vice Chairman Broadsword**, to send **H260** to the floor with a do pass recommendation.

**Vice Chairman Broadsword** stated that she appreciates the effort made to create this bill without eliminating major programs. The Committees who have worked on this have done a good job. **Senator Nuxoll** agreed with **Vice Chairman Broadsword** and stated that she was very impressed with the consideration of public testimony that was used to create this bill. **Senator Heider** stated he was hearing complaints about Medicaid cuts from the public long before the session began and he feels everyone who worked on this bill should be commended for their work. He feels this is a great example of how government should work.

**Senator Schmidt** noted that he appreciates the work put into this bill. At times in the past, the expected savings and the actualized savings from changes did not add up. The fiscal savings can be measured, but the effect of these budget reductions on the people they affect, are not as easy to measure. **Senator Schmidt** stated that he would not be supporting this legislation. **Senator Bock** agreed with **Senator Schmidt** and noted that if you consider the loss of the federal match from these reductions and the drain on the economy, which may likely include the loss of thousands of jobs, the savings do not add up. He also stated he would not be supporting this legislation.

**Chairman Lodge** stated that this was a difficult decision for her. She spent a lot of time thinking of a way to meet the budget requirements without hurting those who, through no fault of their own, cannot take care of themselves. Idaho provides excellent services in comparison to surrounding states. **Chairman Lodge** noted that whole programs could have been cut, but were not and she thanked the Department for the research put into this legislation and commended everyone involved with the creation of this bill.

**VOTE:** A roll-call vote was taken with the results being **Chairman Lodge** voting, aye; **Vice Chairman Broadsword**, aye; **Senator Darrington**, aye; **Senator Smyser**, aye; **Senator Heider**, aye; **Senator Vick**, aye; **Senator Nuxoll**, aye; **Senator Bock**, nay; and **Senator Schmidt**, nay. The motion carried. **Senator Bock** and **Senator Schmidt** filed a Minority Report dissenting to the conclusions of the Committee to send **H260** to the floor with a do pass recommendation and requested it be spread across the pages of the Senate Journal at the appropriate time.

Supporting documents related to this Minority Report have been archived and can be accessed in the office of the Committee secretary (see attachment 3).

**ADJOURNMENT:** **Vice Chairman Broadsword** noted that these changes are not made lightly, everyone on the Committee cares about and pays attention to the people this bill affects. There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 4:30 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
3:00 P.M.  
Room WW54  
Wednesday, March 23, 2011

SUBJECT	DESCRIPTION	PRESENTER
<a href="#">H 129</a>	<b>Relating to Daycare</b> -Changes staff to child ratio requirements to a more user-friendly point system, removes maximum caps on group size, and exempts ratio requirements for children of providers; Adds and modifies definitions for clarity; Amends school busing law to use updated references for daycare centers, group daycare homes and child care home, without making substantive changes; Provides for a provisional license in certain circumstances; Adds felony domestic violence, felony controlled substances violations, and grand theft as disqualifying offenses for 5 years; Adds a tiered fee schedule for daycare centers with 13 or more children, increases the maximum licensing fee from \$175 for a two year license to \$250 for daycare centers with 13 to 25 children, and to \$325 for daycare centers with more than 25 children, maximum license fees for group daycare homes (7 to 12 children) remain the same at \$100 for a two year license; Relocates and clarifies the background check requirements for persons providing compensated child care services for 4 to 6 children; Makes various minor changes to clarify licensing and background check procedures.	Representative Janice K. McGeachin

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge

Vice Chair Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, March 23, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:00 p.m. and welcomed guests. She introduced **Margaret Henbest**, who served 6 terms in the Idaho House of Representatives and is now the Executive Director at Nurse Leaders of Idaho, Idaho Alliance of Leaders in Nursing.

**H129** **Relating to Daycare: Representative Janice McGeachin** stated this bill amends the daycare licensing law as follows: Clarifies that the child count thresholds for licensing exclude related children; Changes staff to child ratio requirements to a more user-friendly point system, removes maximum caps on group size, and exempts ratio requirements for children of providers; Adds and modifies definitions for clarity; Amends school busing law to use updated references for daycare centers, group daycare homes and child care home, without making substantive changes; Provides for a provisional license in certain circumstances; Adds felony domestic violence, felony controlled substances violations, and grand theft as disqualifying offenses for 5 years; Adds a tiered fee schedule for daycare centers with 13 or more children, increases the maximum licensing fee from \$175 for a two year license to \$250 for daycare centers with 13 to 25 children, and to \$325 for daycare centers with more than 25 children, maximum license fees for group daycare homes (7 to 12 children) remain the same at \$100 for a two year license; Relocates and clarifies the background check requirements for persons providing compensated child care services for 4 to 6 children; Makes various minor changes to clarify licensing and background check procedures. **Representative McGeachin** requested the Committee send **H129** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Nuxoll** asked why the Montessori schools are considered daycares when they provide schooling. **Representative McGeachin** answered that at some point during the day Montessori combines schooling and daycare. They are within the requirements of the licensure law for daycare facilities. **Senator Bock** asked where in this bill Montessori schools are addressed. **Representative McGeachin** replied the issue of the Montessori schools is in the definition from statute for a daycare facility. The definition states "a daycare facility means a place or facility providing daycare services for compensation to seven or more children not related to the provider." At some time during the day Montessori schools provide a daycare service under this definition which requires them to meet licensure standards. **Senator Bock** noted that during the rules review of this year's session, Montessori had issues with rules that were brought forward. He asked if this legislation addressed those issues. **Representative McGeachin** answered no.

**Vice Chairman Broadsword** stated that she feels there should be more breaks in the point system that is in this legislation. Instead of all children 18 months to under 5 years equaling one point, she feels it should be from 18 months to 24 months and another group from 18 months to 3 years. **Vice Chairman Broadsword** feels this is a problem because a kindergarten class of 5 year old children would be out of compliance. **Representative McGeachin** stated that this point system was based on regulations used by the city of Ammon, ID and the intent is to make the current statute more flexible. **Vice Chairman Broadsword** stated that she thinks the point system is a better method but is concerned that there are not enough breaks in the age groups. **Representative McGeachin** noted that the Montessori schools supported this point system while this legislation was in the House.

**Senator Vick** asked if this bill would separate children into different age groups while at daycare. **Representative McGeachin** responded no. Current statute prevents the mixing of ages, this bill would allow kids of different ages to be together. **Senator Vick** noted that he has received letters that this legislation is more restrictive and will put daycares out of business. **Representative McGeachin** stated that this has been the debate for years. Some people feel the daycare laws are too restrictive and some feel they are not restrictive enough. Some feel that any kind of licensure is too restrictive.

**TESTIMONY:**

**Leslie Folsom**, Ammon, ID, spoke **in support** of **H129**. She stated that the old law does not allow for integration of different aged children and she wants integration. She feels parents should have more choice. **Ms. Folsom** supports that this legislation will require background checks to be available to the parents from daycare providers.

**Senator Bock** asked why **Ms. Folsom** is concerned most about background checks instead of children to adult ratios. **Ms. Folsom** answered that background checks are not currently available for parents and she feels this is very important. Adult to child ratios are important, but Ammon already uses the system brought forth in this legislation and it works well. **Senator Bock** stated that the State prescribes the minimum standards that have to be followed and asked if Ammon's standards were lower than the State's. **Ms. Folsom** replied no. Ammon's standards are not lower, they clarify the minimum law. The old law bases ratios off of the youngest child. In Ammon, each child is looked at independently to determine ratios. **Vice Chairman Broadsword** noted that rules were rejected that would require Ammon to comply with the State's standards. **Senator Darrington** stated the original Day Care Act was written in 1987. In 2009 a new act was brought forth and put into effect. **Ms. Folsom** stated that Ammon does not have to comply with the 2009 Act until the IDAPA rules are approved. She stated at this time they are grandfathered in under the 1987 Act and they do not agree with the quota system in the 2009 Act which is based on the youngest child.

**LeAnn Simmons**, Director, Idaho Voices for Children, spoke **in opposition** to **H129**. She stated a lot of work has been put into this legislation, but she does not feel it is ready. She is representing different groups including Idaho Voices for Children, Catholic Charities of Idaho, Rose Hill Montessori, Idaho Association for the Education of Young Children, Park Center Montessori, Eagle Montessori, and Montessori Academy. These groups have come up with some changes they would like to see in this legislation before it is passed. The changes include the required licensure being proposed which they feel allows for too many children, the proposed child to staff ratio which does not provide for adequate adult supervision, and an exception for the Montessori schools because they will not be able to comply with the proposed laws.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

**Ellen Radcliffe**, Primary Colors Learning Centers, spoke **in opposition** to **H129**. She stated that it is not safe or realistic to have 12 young children to one adult. A very young child has needs and one person cannot meet 12 childrens' needs by themselves. **Ms. Radcliffe** stated that she has had teachers tell her they will quit if this legislation is passed.

**Vice Chairman Broadsword** asked if the maximum group size from the current law affects **Ms. Radcliffe's** business. **Ms. Radcliffe** answered just a small amount with school aged children. The removal of the maximum group size in the proposed legislation will not affect her. **Senator Nuxoll** asked what the ratio is for adults to young children under 18 months and if any of **Ms. Radcliffe's** employees bring their children to day care and how that affects the ratios. **Ms. Radcliffe** replied the ratio for infants which are grouped from newborns to 1 year olds is one adult to 4 or 5 children; 1 year olds to 2 year olds are grouped as one adult to 6 children. Many employees have children who attend the daycare, and all of those children are counted in the ratio. **Senator Smyser** asked **Ms. Radcliffe** how she feels about the changes **Ms. Simmons** suggested. **Ms. Radcliffe** responded that the points system in the new legislation must be revisited. The group size is good.

**Nona Shoff**, Nana's Daycare and Preschool, spoke **in support** of **H129**. Nana's Daycare is an age integrated daycare in Idaho Falls, ID and **Ms. Shoff** feels this is very important and does not want to lose this. She stated the ratios must change.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 3).

**Chairman Lodge** noted that **Ms. Shoff** stated the Fire Department cleared her facility to hold 55 children safely and asked if she could do that without help. **Ms. Shoff** answered that she would need help, how much would depend on how many infants or toddlers she had. **Vice Chairman Broadsword** noted that this bill allows one person to have twelve 18 month old babies and asked **Ms. Shoff** if she felt that was safe. **Ms. Shoff** replied no.

**Debbie Hill**, Deb n' Rienna's Daycare, Bonneville County, spoke **in support** of **H129**. She stated that she does not agree with the group size in the current law.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 4).

**Senator Bock** asked what **Ms. Hill** thought of **Ms. Simmons** suggested changes. **Ms. Hill** responded that the changes were okay, but she does not want to start over with this.

**Cynthia Bibaros**, Jazzy's Early Learning Center, spoke **in support** of **H129**. She stated that she supports this legislation because it is a step in changing the current law.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 5).

**Senator Bock** asked what **Ms. Bibaros** felt about the suggested changes from **Ms. Simmons**. She answered that this bill is a step in the right direction. She suggests taking that step and then re-addressing the bill. **Chairman Lodge** thanked **Ms. Bibaros** for her passion in helping children.

**Gena Anderson**, Right on Track Child Care, Twin Falls, spoke **in support** of **H129**. She stated the ratios and capped group sizes in the current law are hurting her business and other Twin Falls daycare businesses. She supports the point system and agrees that it could use some change, but that it is a good step.

**Thomas Krasowski**, Roni's House Childcare, spoke **in support** of **H129**. He stated his primary concern is relief from the current laws.

**Carrie Little**, Foothills School of Art and Science, spoke **in support** of **H129**. She stated that she is willing to look at the suggested changes for the proposed legislation, but wants to change the current law.

**Representative Sharon Block** spoke **in support** of **H129**. She stated that she has been involved with this issue for many years. H129 addresses concerns from the public.

**Mike Malterre**, Eagle Montessori, spoke **in support** of **H129**. He stated that H129 works for the Montessori schools because they need a larger ratio to stay in business. The suggested changes would also work for the schools.

**Senator Heider** stated his concern with the proposed changes by **Ms. Simmons** is the exemption for Montessori schools from the law. **Vice Chairman Broadword** asked if Montessori could operate under the new bill which states children 18 months to 5 years equal one point. **Mr. Malterre** answered yes, a 12 to 1 ratio works for Montessori schools.

**Representative Henbest**, Nurse Leaders of Idaho, spoke **in opposition** to **H129**. She stated that she opposes this legislation because it does not provide a safe environment for children. She is concerned the point system is not restrictive enough.

**Senator Darrington** asked what the answer is for all the providers who have testified that they cannot make money under the current laws. **Representative Henbest** answered that the safety of children is the most important thing and is more important than making money. **Vice Chairman Broadword** stated that the 2009 law was put into affect to protect children from unregulated daycare. An unintended consequence was the harm of daycare facilities who were running well and regulated. **Representative Henbest** stated the problem affecting good daycare facilities needs to be solved, but this proposed bill creates many problems.

**Senator Corder** spoke **in opposition** to **H129**. He stated the 2009 Act that he was involved in was not perfect. There are problems that need to be fixed. He agrees the point system is a good idea, but the children should not be grouped the way they are.

Written testimony was turned into the Committee. **Shannon Johnston**, a parent of children who attend Nana's Daycare, wrote **in support** of **H129**. **Brad and Carmen Manges**, parents of children who attend Deb n' Rienna's Daycare in Bonneville County, wrote **in support** of **H129**. **Becky Thomas** wrote on behalf of Debbie Hill's Daycare **in support** of **H129**. **Heather Vollmer**, a parent of children in a Bonneville County Daycare, wrote in support of **H129**. **Ron Folsom**, Planning Director, City of Ammon, wrote **in support** of **H129**.

**Diane Kofoed**, Diane's Early Care and Education, wrote **in opposition** to **H129**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachments 6, 7, 8, 9, 10, and 11).

**Chairman Lodge** asked **Rob Luce**, Childcare Licensing Program Manager, Division of Family and Community Services, DHW, to answer questions from the Committee. **Senator Darrington** asked if in the 2009 Act the rulemaking provision was changed to give rulemaking authority to the DHW. **Mr. Luce** answered yes. **Senator Darrington** asked why there are no rules to implement the 2009 Act. **Mr. Luce** responded that the rules to implement the 2009 Act were passed this session.

**Chairman Lodge** asked **Representative McGeachin** to return to the podium with her closing statements. She thanked the Committee for the hearing on this legislation. She stated that she does not believe this legislation allows for too many children because it is not doing anything different from current statute. **Representative McGeachin** stated that current law is vague and most changes in the legislation were made by DHW.

**Vice Chairman Broadsword** noted page 4, line 29 deletes the words "occasional care" and stated that concerns her. She asked **Representative McGeachin** to address that change. **Representative McGeachin** indicated that is one of the changes DHW recommended on the draft dated 2/26/2010. She offered to yield time to **Representative Luker** who worked on the amendments.

**Chairman Lodge** noted the time and the fact that some Committee members had other commitments and asked the Committee if any more explanation on the bill was needed. **Senator Schmidt** asked for an explanation as to why on page 7 the language limiting the jurisdiction on the background check for minors was added. **Representative McGeachin** indicated again that was the recommendation made by DHW to help clarify the statute.

**Chairman Lodge** requested that **Rob Luce** return to the podium and asked if he worked on the changes that had just been referred to and if DHW had conceded to those changes. He responded that he did not work on the changes but that this legislation went through many, many preliminary drafts and he is not sure when the last one was prepared. **Chairman Lodge** commented that the draft which she had been given was different than the one referred to by **Representative McGeachin**.

**MOTION:**

**Vice Chairman Broadsword** moved, seconded by **Senator Bock**, that **H129** be sent to the 14th Order for amendment.

**SUBSTITUTE MOTION:**

**Senator Nuxoll** commented that this is not a perfect bill, but feels providers are caught in a quandary and moved, seconded by **Senator Vick**, to send **H129** to the floor with a do pass recommendation.

**Senator Smyser** noted that the Senate did not fully support the 2009 bill, but consensus was reached after it was amended in the House. She stated she feels we need to work out where the parent's responsibility is. **Senator Bock** commented that there are flaws in this bill, but it is not all bad and we must consider the broader picture. He feels a concerted effort to come up with a better bill is worthwhile. Vice Chairman Broadsword, speaking for the original motion, indicated this is a path forward and we need something that is usable for all providers.

**Chairman Lodge** commented that she would be happy if DHW could write rules. She called for the vote on the substitute motion to send **H129** to the floor with a do pass recommendation. The motion failed on **voice-vote**. The vote on the original motion to send **H129** to the 14th Order for amendment carried by **voice-vote**.

**Chairman Lodge** thanked all those who testified and **Representatives McGeachin** and **Luker** for their work on the bill. She stated it was her hope they would come forward with recommendation for amending the bill.

**ADJOURNMENT: Chairman Lodge** announced that the meeting time for Thursday, March 24, has been moved up to 2:00 p.m. and adjourned the meeting at 5:17 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**2:00 P.M.**  
**Room WW54**  
**Thursday, March 24, 2011**  
**PLEASE NOTE TIME CHANGE**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Telephone Hearing</b>	<b>Jay F. Kunze</b> of Pocatello, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.	Jay F. Kunze
<b>Gubernatorial Appointment Hearing</b>	<b>Travis J. Beck</b> of Idaho Falls, ID, was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing July 1, 2010 and expiring July 1, 2013.	Travis J. Beck
<a href="#"><u>H 5</u></a>	<b>Relating to Pharmacists</b> Repealing Section 54-1739, Idaho Code, relating to severability; Amending Chapter 17, Title 54, Idaho Code, by the addition of a new section 54-1739, Idaho Code, to provide for prospective drug review and counseling in the Idaho Pharmacy Act; Repealing Section 54-1749, Idaho Code, relating to prospective drug review and counseling; Repealing Section 54-1750, Idaho Code, relating to severability; and Amending Chapter 17, Title 54, Idaho Code, by the addition of a new Section 54-1771, Idaho Code, to provide severability.	Mark Johnston
<a href="#"><u>H 218</u></a>	<b>Relating to Pharmacists</b> - Amending Section 54-1704, Idaho Code, to provide additional provisions defining the practice of pharmacy.	Mark Johnston
<a href="#"><u>HCR 23</u></a>	<b>Stating Findings of the Legislature</b> and Rejecting a certain rule of the Department of Health and Welfare Relating to Medicaid Basic Plan Benefits	Representative Janice McGeachin
<b>Minutes Approval</b>	Approval of the Minutes of March 1, 2011.	Senators Smyser and Bock

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge

Vice Chair Broadsword

Sen Darrington

Sen Smyser

Sen Heider

Sen Vick

Sen Nuxoll

Sen Bock

Sen Schmidt

COMMITTEE SECRETARY

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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, March 24, 2011

**TIME:** 2:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 2:00 p.m.

**GUBERNATORIAL APPOINTMENT HEARING:** **Travis J. Beck**, Idaho Falls, ID, was appointed to the Commission for the Blind and Visually Impaired to serve a term commencing July 1, 2010 and expiring July 1, 2013. He stated that he is legally blind and has the same congenital condition as his grandfather, who was also legally blind. He provided the Committee with a short biography of his professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Smyser** asked how **Mr. Beck** would compare Idaho versus other states when it comes to helping the blind. He stated that he does not have a lot of out of state experience, but the Idaho Commission for the Blind and Visually Impaired does a wonderful job. There is room for improvement in the State. **Senator Heider** noted that he has always appreciated the Eagle Scouts and asked what **Mr. Beck** did as his Eagle Scout Project. **Mr. Beck** answered that Hillside Jr. High School needed a bicycle rack and he did fund-raising and worked with local business to purchase a bicycle rack for the school. **Vice Chairman Broadsword** asked if **Mr. Beck** felt it was feasible to co-locate the Commission for the Blind and the Visually Impaired with Vocational Rehabilitation. He replied that it is a hot topic. When you combine agencies like this the bureaucracy can get too large and services for the blind are pushed to the bottom. The elderly blind population is growing and they need special services. **Vice Chairman Broadsword** asked **Mr. Beck** if he was aware the Council for the Deaf and Hard of Hearing has been moved and co-located with Vocational Rehabilitation and that the two agencies would be combined, but they would use the same facilities. **Mr. Beck** stated the biggest problem would be the fact that many people stay in dorms for training at the current building for the Commission and this could affect that.

**Senator Darrington** asked if **Mr. Beck** would be diligent as a member of the Commission to make sure that no outside organization or group would be able to make the kind of attempt that was made in 1985 when the Association for the Blind attempted to take over the Commission by force. **Mr. Beck** stated that he has heard stories about what happened in 1985 and that he would not let that happen. He believes balance is good and he would like all blind people to have the choice to join any organization. **Senator Darrington** asked if **Mr. Beck** shared his passion that the Commission not come under the umbrella of the State Board of Education and that **Angela Jones**, Administrator, Idaho Commission for the Blind and Visually Impaired, is responsible for cleaning up the mess the Commission was in 8 years ago. **Mr. Beck** responded yes.

**Chairman Lodge** thanked **Mr. Beck** for appearing before the Committee and advised him that a vote on his appointment would be taken Monday, March 28, 2011.

**GUBERNATORIAL  
APPOINTMENT  
TELEPHONE  
HEARING:**

**Jay F. Kunze**, Pocatello, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012. He stated that he has been on the Panel for 6 years. He provided the Committee with a short biography of his professional and personal life.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

**Chairman Lodge** asked what the Panel does. **Mr. Kunze** responded that they review license applications and analyze them. **Chairman Lodge** asked if **Mr. Kunze** felt the Grandview facility was doing a good job. He replied that he was very impressed. **Senator Vick** asked what a certified health physicist is. **Mr. Kunze** answered that it is an official title given by the American Board of Health Physicists. **Senator Nuxoll** asked what the advances are in using neutrons for cancer therapy. **Mr. Kunze** responded that it is a very sophisticated science, done with computers. In the future it could be a way to effectively treat cancer.

**Chairman Lodge** thanked **Mr. Kunze** for appearing before the Committee and advised him that a vote on his appointment would be taken Monday, March 28, 2011.

**H5**

**Relating to Pharmacists: Mark Johnston**, Executive Director, Idaho Board of Pharmacy, stated section 54-1749, Idaho Code, imposes prospective drug review and counseling obligations on pharmacists under the Out-of-State Mail Service Pharmacy Licensing Act. The proposed legislation clarifies that all pharmacists are required to complete a prospective drug review and offer to counsel patients on all new medications by moving the requirement under the Idaho Pharmacy Act, Section 54-1701, Idaho Code, et seq. Existing Section 54-1747, Idaho Code, already requires out-of-state mail service pharmacies to provide toll free telephone service to facilitate communication between patients in Idaho and the out-of-state pharmacist. **Mr. Johnston** requested the Committee send **H5** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachments 3a and 4).

**MOTION:**

**Senator Bock** moved, seconded by **Senator Vick**, to send **H5** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Vick** will sponsor **H5** on the floor.

**H218**

**Relating to Pharmacists: Mr. Johnston** stated the proposed legislation grants pharmacists prescriptive authority, limited to dietary fluoride supplements and certain immunizations, in order to provide the citizens of Idaho improved access to health care. **Mr. Johnston** requested the Committee send **H218** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 3b).

**Vice Chairman Broadword** asked for clarification on this legislation and if it would allow a 12 year old child to receive a booster for the measles or mumps without an office visit. **Ms. Johnston** responded that is correct.

Written testimony was given to the Committee. **Dr. Rich Bailey**, Executive Director, School Smiles; **Paul S. Cady**, Dean, College of Pharmacy; and **Steven F. Scanlin**, Chairman, Central District Health Department Board of Health; wrote in support of **H218**.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Bock**, to send **H218** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Chairman Lodge** will sponsor **H218** on the floor.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Bock**, to approve the March 1, 2011 minutes as written. The motion carried by **voice-vote**.

**RS 20684** **Relating to Medicaid:** This legislation removes the hospital assessment exemption for private hospitals placing them in the same category as all other hospitals except State Hospital North in Orofino, State Hospital South at Blackfoot, and the Department of Veteran's Affairs Medical Center in Boise, which are exempt from the assessment required by Section 5601404, Idaho Code.

**RS 20673** **Relating to Child Support:** This is a trailer bill to **S1103** and corrects an inadvertent error regarding a retroactive date. Without this correction, an ambiguity would exist as to whether the Legislature intended **S1103**, dealing with child support collections, to be applied retroactively to 1995.

**Chairman Lodge** asked for a unanimous consent motion to send **RS 20684** and **RS 20673** to print.

**MOTION:** **Senator Darrington** moved, seconded by **Vice Chairman Broadsword**, to send **RS 20684** and **RS 20673** to print. The motion carried unanimously by **voice-vote**.

**HCR23** **Stating Finding of the Legislature: Representative Janice McGeachin** stated this legislation closes an unnecessary loophole in the rules governing taxpayer funded abortions under the State's Medicaid program.

**Vice Chairman Broadsword** noted the way she read this legislation is that a child under 18 who was a victim of a rape or incest would no longer qualify for an abortion and asked **Representative McGeachin** to clarify. **Representative McGeachin** answered that the rules state what circumstances must arise to qualify for an abortion such as proof of a rape or incest. **Senator Nuxoll** stated that it would be good to follow through and pass **HCR23**.

In response to questions from the Committee, **Representative McGeachin** stated in 2006 the Medicaid laws went through a huge rewrite and the following year the Department came forward with new rules. The section this legislation will amend was brought forward during that time and slipped through without anyone noticing. She feels this section is contrary to the legislative intent and it creates a loophole.

**Senator Bock** noted that more information is needed about this legislation and requested **HCR23** be delayed until Monday. **Chairman Lodge** acknowledged the Committee had a shortage of time and wanted more information on this legislation. She stated **HCR23** would be held until Monday, March 28, 2011. **Vice Chairman Broadsword** requested a representative from Administrative Rules come to the hearing to address issues with the legislation.

**ADJOURNMENT:** There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 3:05 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

AGENDA  
**SENATE HEALTH & WELFARE COMMITTEE**  
**3:00 P.M.**  
**Room WW54**  
**Monday, March 28, 2011**

SUBJECT	DESCRIPTION	PRESENTER
<b>Gubernatorial Appointment Vote</b>	<b>Jay F. Kunze</b> , of Pocatello, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.	
<b>Gubernatorial Appointment Vote</b>	<b>Travis J. Beck</b> , of Idaho Falls, ID, was appointed to the Commission for the Blind & Visually Impaired to serve a term commencing July 1, 2010 and expiring July 1, 2013.	
<a href="#"><u>HCR 23</u></a> (continued)	<b>Stating Findings of the Legislature</b> and rejecting a certain rule of the Department of Health and Welfare Relating to Medicaid Basic Plan Benefits	Representative Janice McGeachin
<a href="#"><u>HCR 22</u></a>	<b>Stating Findings of the Legislature</b> and rejecting a certain rule of the Department of Health and Welfare relating to rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding	Representative Stephen Hartgen
<a href="#"><u>H 262</u></a>	<b>Relating to Public Assistance Law</b> ; amending Section 56-211, Idaho Code, to provide additional requirements relating to an application for certain public assistance, to provide exceptions, to grant the State Department of Health and Welfare rulemaking authority and to make a technical correction.	Representative Christy Perry
<a href="#"><u>S 1193</u></a>	<b>Relating to Child Support</b> ; Amending Section 5 as added by S 1103, to correct a retroactive effective date; and declaring an emergency.	Senator Lodge
<a href="#"><u>S 1194</u></a>	<b>Relating to Medicaid</b> ; Amending Section 56-1408, Idaho Code, as amended in Section 18 of H 260, to remove an exception.	Senator Schmidt
<b>Minutes Approval</b>	Approval of the Minutes of the March 14, 2011 Meeting.	Senators Heider and Bock

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider

Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, March 28, 2011

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, Bock, and Schmidt

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 3:05 p.m. and welcomed guests.

**GUBERNATORIAL APPOINTMENT VOTE:** **Jay F. Kunze**, Pocatello, ID, was appointed to the Hazardous Waste Facility Siting License Application Review Panel to serve a term commencing March 6, 2009 and expiring March 6, 2012.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Heider**, to send the appointment of **Jay F. Kunze** to the Hazardous Waste Facility Siting License Application Review Panel to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice-vote**. **Senator Schmidt** will sponsor **Mr. Kunze's** appointment on the floor.

**GUBERNATORIAL APPOINTMENT VOTE:** **Travis J. Beck**, Idaho Falls, ID, was appointed to the Commission for the Blind and Visually Impaired to serve a term commencing July 1, 2010 and expiring July 1, 2013.

**MOTION:** **Vice Chairman Broadsword** moved, seconded by **Senator Nuxoll**, to send the appointment of **Travis J. Beck** to the Commission for the Blind and Visually Impaired to the floor with the recommendation that it be confirmed by the Senate. The motion carried by **voice-vote**. **Senator Smyser** will sponsor **Mr. Beck's** appointment on the floor.

**Chairman Lodge** stated that she has to leave temporarily and passed the gavel to **Vice Chairman Broadsword**.

**HCR23** **Stating Finding of the Legislature: Representative Janice McGeachin** stated this legislation closes an unnecessary loophole in the rules governing taxpayer funded abortions under the State's Medicaid program. **Representative McGeachin** requested the Committee send **HCR23** to the floor with a do pass recommendation.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Vice Chairman Broadsword** called forward **Dennis Stevenson**, Office of Administrative Rules, who stated the set of rules the section being amended comes from was completely rewritten in 2007. **Vice Chairman Broadsword** noted that the way she reads the concurrent resolution is that you must qualify and then you must meet one of the four stipulations and asked if **Mr. Stevenson** read it the same way. He responded yes, it was not written well and should have been broken into two subsections.

**TESTIMONY:**

**Ray Horrell** spoke in support of **HCR23**. He stated that Medicaid funding will promote abortions by making them easily accessible.

**Jason Herring**, President, Right to Life of Idaho, spoke in support of **HCR23**. He stated this legislation will close a major loophole and prevent abuse of the system.

**Vice Chairman Broadsword** asked **Leslie Clement**, Administrator, Division of Medicaid, Department of Health and Welfare (DHW) to explain how it works for DHW. If a woman is not a Medicaid patient does she qualify for these services.

**Ms. Clement** replied that she does not know what type of coverage the women would get if she did not qualify for Medicaid. She stated DHW has spent very little funding for these types of services.

**Julie Lynde** spoke in support of **HCR23** stating her position aligned with the testimony of **Jason Herring**.

**David Ripley**, Idaho Chooses Life, spoke in support of **HCR23**. He stated there is no federal requirement for Medicaid to fund teenage abortions and there has been an increase in teenage abortions from 2005 to 2009.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 2).

**Pro Life**, American Right To Life, spoke in support of **HCR23**. He stated this abortion legislation should be sent to the Senate floor.

**Representative McGeachin** returned to the podium and thanked the Committee for their consideration. She stated that she shares responsibility for not catching this in 2007 and it is time to focus on the rule and whether it goes against the legislative intent. In response to questions from the Committee, **Representative McGeachin** noted the law states that no funds shall be used for abortions unless the pregnancy is a result of a rape or incest as determined by the court. The requirements stated in the law are a copy of the court's determination of rape or incest, documentation the rape or incest was reported to a law enforcement agency, a physician's certified note that the woman was unable to report the rape or incest to law enforcement, or documentation that the women was under the age of 18 at the time of the incident. The legislative language "or documentation that the women were under the age of 18" could cause a misinterpretation as to who can qualify for a Medicaid covered abortion.

**MOTION:**

**Senator Nuxoll** moved, seconded by **Senator Heider**, to send **HCR23** to the floor with a do pass recommendation.

**Senator Smyser** thanked **Representative McGeachin** for answering the Committee's questions and acquiring the information that was asked for. **Vice Chairman Broadsword** stated that she believes the section being amended was added to protect the children who are victims of incest and are unable to go to court for fear of their lives. **Senator Vick** noted that **Vice Chairman Broadsword** may be correct, but he does not feel it belongs in these rules and supports this legislation.

**VOTE:**

The motion carried by **voice-vote**. **Senator Nuxoll** will sponsor **HCR23** on the floor.

## HCR22

**Stating Findings of the Legislature: Representative Stephen Hartgen** stated this concurrent resolution would reject a portion of a document incorporated by reference in a pending rule of the DHW relating to Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding as being not consistent with legislative intent. The effect of this resolution, if adopted by both houses, would be to prevent the portion of the document incorporated by reference from going into effect. **Representative Hartgen** requested the Committee send **HCR22** to the floor with a do pass recommendation.

The Committee discussed the fact that it had previously voted to reject Section I.B.4 of the Standards for Domestic Violence Offender Intervention Programs, incorporated by reference in Sections 004.03, paragraph b, of **Rule Docket No. 16-0504-1001**, and that by this resolution the House concurs with that rejection.

**Senator Bock** moved, seconded by **Vice Chairman Broadsword**, to send **HCR22** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Vice Chairman Broadsword** will sponsor **HCR22** on the floor.

**Vice Chairman Broadsword** returned the gavel to **Chairman Lodge**.

## H262

**Relating to Public Assistance Law: Representative Christy Perry** stated the proposed legislation gives additional authority to the DHW to verify and account for the number of dependent children being claimed on applications for the federal food stamp program by requesting additional documentation the Department deems may be necessary to accomplish this task. This legislation is not intended to cause applicants to provide immigration or lawful presence status of their minor children or themselves. Rather, it seeks to determine that the number of dependent children being claimed is the actual number of children which exist. The legislation does not affect those of refugee status. **Representative Perry** requested the Committee send **H262** to the floor with a do pass recommendation.

**Vice Chairman Broadsword** asked if the DHW requires the social security number for all children being claimed on applications for any service.

**Representative Perry** responded yes, but it may not apply for non-citizens who do not have a social security number. **Senator Bock** asked what collateral contacts can be used to provide proof. **Representative Perry** replied school records could be used or personal contacts. **Vice Chairman Broadsword** asked how DHW will fund this and how much it will cost. **Representative Perry** answered this legislation will not be a mandate, but it will give DHW the authority to handle this if it is necessary. **Vice Chairman Broadsword** asked what the term "shall verify" means if not that the DHW will verify. **Representative Perry** responded that DHW requires verification when it is available such as social security cards, but when a social security card is not available DHW will be able to verify in other ways.

**Chairman Lodge** requested **Russ Baron**, Administrator, Division of Welfare, DHW, come to the podium to answer questions from the Committee. **Chairman Lodge** asked how many means of verification DHW used for food stamp applications. **Mr. Baron** responded the primary way is with a social security number. This legislation will allow DHW to ask for other means of identification. **Senator Bock** noted the term "verify" in the legislation is not really correct and the term "confirm" would be more useful. **Vice Chairman Broadsword** asked if the Attorney General had looked over this bill. **Mr. Baron** replied yes, and there were no major problems.

**Senator Darrington** stated that he has been to the local Health and Welfare Office and has seen the verification process and he remembers the process as being very rapid. **Mr. Baron** responded that is correct. **Senator Darrington** asked if fraud cases happened and how they are dealt with. **Mr. Baron** replied yes, a few times a year the fraud unit must go out and do a home visit and check collateral contacts. **Senator Darrington** asked if **Mr. Baron** felt this legislation would increase the number of fraud cases. **Mr. Baron** answered no, he does not believe it will make a difference either way.

**Senator Smyser** asked **Representative Perry** why this law is necessary if it will not make a difference in fraud cases. **Representative Perry** responded that this legislation will give the public information in law about the verification process for food stamps which is something they currently do not have.

**MOTION:** **Senator Bock** moved, seconded by **Senator Heider**, to send **H262** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Vick** will sponsor **H262** on the floor.

**S1193** **Relating to Child Support:** **Chairman Lodge** stated this is a trailer bill to **S1103** and corrects an inadvertent error regarding a retroactive date. Without this correction, an ambiguity would exist as to whether the Legislature intended **S1103**, dealing with child support collections, to be applied retroactively to 1995. **Chairman Lodge** requested the Committee send **S1193** to the floor with a do pass recommendation.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Bock**, to send **S1193** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Chairman Lodge** will sponsor **S1193** on the floor.

**S1194** **Relating to Medicaid:** **Senator Schmidt** stated this legislation removes the hospital assessment exemption for private hospitals placing them in the same category as all other hospitals except State Hospital North in Orofino, State Hospital South at Blackfoot, and the Department of Veteran's Affairs Medical Center in Boise, which are exempt from the assessment required by Section 56-1404, Idaho Code. **Senator Schmidt** requested the Committee send **S1194** to the floor with a do pass recommendation.

**Chairman Lodge** noted that a handout was given to the Committee from **Ms. Clement** and DHW listing the 8 specialty hospitals in Idaho and how much they are projected to be paid for Medicaid services this year and explaining what removing the term "specialty hospitals" will do.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see attachment 3a and 3b).

**Vice Chairman Broadsword** stated that it was her understanding that specialty hospitals did not accept Medicaid patients and asked **Sheila Pugatch**, Principal Financial Specialist, Division of Medicaid, DHW, to clarify. **Ms. Pugatch** answered that the specialty hospitals take few Medicaid patients, but there are some that do. **Senator Bock** asked if the specialty hospitals received a break when not assessed last year. **Ms. Pugatch** replied yes. **Senator Vick** asked why the specialty hospitals were exempted. **Ms. Pugatch** responded that from the history she knows, the specialty hospitals felt that because they did not serve very many Medicaid patients, they should not have to take part in the hospital assessments. **Senator Vick** asked if all 8 specialty hospitals shown on the handout take Medicaid patients. **Ms. Pugatch** answered yes.

**Vice Chairman Broadsword** noted on the handout it states the specialty hospitals could contribute \$1.4 million of the \$28.5 million total assessment and the fiscal statement shows this legislation will save \$1.745 million and asked **Ms. Pugatch** where the difference comes from. **Ms. Pugatch** replied the difference is the \$90,000 for Federal Upper Payment Limit payments and \$255,000 Disproportionate Share payments to the specialty hospitals.

**Senator Darrington** stated as he remembers it legislation was passed for public hospitals to allow them to make a contribution such as an assessment in order to access federal funds and asked **Ms. Clement** if that is correct. **Ms. Clement** responded in 2000 Idaho began to take advantage of an upper payment limit for the public hospitals. This was a way to leverage federal funds and close the gap between what Medicaid pays and Medicare pays. A few years ago the private hospitals looked at this assessment which accomplishes the same thing. **Senator Bock** asked if this legislation would create an incentive for specialty hospitals to take more Medicaid patients. **Ms. Clement** answered she hopes it will cause them to take more. **Senator Nuxoll** asked if hospitals not taking Medicaid patients for whatever reason will be affected in a negative way by this legislation. **Ms. Clement** deferred to **Ms. Pugatch** who stated the most the adjustment will be this year is 2% of patient revenue. **Chairman Lodge** asked if that included just Medicaid patients. **Ms. Pugatch** responded that included everyone.

**TESTIMONY:** **Steve Millard**, Idaho Hospital Association, spoke in support of **S1194**. He stated a hospital assessment act was created in 2007 and at that time specialty hospitals fought against the legislation. It was agreed upon to cut the specialty hospitals from the legislation at that time.

**Vice Chairman Broadsword** asked if **Mr. Millard** has heard from the specialty hospitals about this legislation. He answered no.

**MOTION:** **Senator Bock** moved, seconded by **Vice Chairman Broadsword**, to send **S1194** to the floor with a do pass recommendation. The motion carried by **voice-vote**. **Senator Schmidt** will sponsor **S1194** on the floor.

**MOTION:** **Senator Heider** moved, seconded by **Senator Bock**, to approve the March 14, 2011 minutes as written. The motion carried by **voice-vote**.

**ADJOURNMENT:** There being no further business to come before the Committee, **Chairman Lodge** adjourned the meeting at 4:22 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

**AMENDED #1 AGENDA  
SENATE HEALTH & WELFARE COMMITTEE  
2:00 P.M.  
Room WW54  
Wednesday, March 30, 2011**

**PLEASE NOTE TIME CHANGE**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<b>Minutes Approval</b>	Minutes of the Meeting of January 18, 2011	Senators Darrington and Bock
<b>Minutes Approval</b>	Minutes of the Meeting of March 9, 2011	Senators Nuxoll and Schmidt
<b>Minutes Approval</b>	Minutes of the Meeting of March 16, 2011	Senators Vick and Schmidt
<b>Presentation</b>	<b>Office of Performance Evaluation</b> - Report on Medicaid Claims Processing System	Rakesh Mohan, Director
<b>Presentation</b>	<b>Idaho Alzheimers Planning Group</b>	Mike Berlin, Troy Rohn and Sarah Toevs

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
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MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, March 30, 2011

**TIME:** 2:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Nuxoll, and Schmidt

**ABSENT/ EXCUSED:** Senator Bock

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 2:05 p.m. and welcomed guests.

**MOTION:** **Senator Darrington** moved, seconded by **Vice Chairman Broadsword**, to approve the January 18, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Schmidt**, to approve the March 9th, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Nuxoll**, to approve the March 16, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Smyser** moved, seconded by **Senator Heider**, to approve the March 17, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, to approve the March 22, 2011 minutes as written. The motion carried by **voice-vote**.

**MOTION:** **Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, to approve the March 23, 2011 minutes as written. The motion carried by **voice-vote**.

**PRESENTATION:** **Office of Performance Evaluations - Report on Medicaid Claims Processing System:** **Rakesh Mohan**, Director, Office of Performance Evaluations (OPE), introduced **Amy Lorenzo**, Principal Performance Evaluator, OPE, and **Maureen Brewer**, Senior Performance Evaluator, OPE. He stated that **Ms. Lorenzo** and **Ms. Brewer** would be giving a presentation on the Medicaid payment processing system operated by Molina Healthcare, Inc.

**Ms. Lorenzo** began the presentation by stating the major findings after the implication of the new payment processing system. The first was in system development. The contract did not specify adequate end-user testing and only half of the total providers were enrolled. The system began processing claims before development was complete. Several developmental deliverables remain outstanding, but Molina has submitted the first bill for operations. The next major finding was in claims processing. Molina has taken steps to resolve issues but provider concerns persist. The claims in the backlog are decreasing and timeliness of claims processing is currently meeting state and federal requirements. However, there are no contract requirements for accuracy of claims.

**Ms. Lorenzo** spoke of the overall contract and the contract deliverables. The total contract amount is over \$106 million, which includes the monthly operations fee paid to Molina. The DHW paid out over \$18 million dollars for the contract. The contract deficiencies included the lack of requirements for the number of providers or claims needed to pilot the system. Only 50 providers were selected for the pilot and only 3 claims were submitted under the test environment. There were no requirements for the number of providers to be enrolled in the new system. In order to help reduce financial hardships associated with delayed payments, DHW issued interim payments; \$117 million was issued to providers without any formal guidance or instructions. Molina has worked with the DHW to recoup these interim payments. Currently they are attempting to recoup \$60 million of the original \$117 million and are at risk of not recouping \$2 million. DHW is also working with the Attorney General's office on this issue.

When Molina went live they were understaffed. Molina increased their staffing in key areas including customer service representatives and configurations analysts. The call wait time was nearly 40 minutes in August, 2010 and is now only 2 to 3 minutes on average. The one issue providers continue to express concern about is the lack of knowledge from customer service representatives.

**Ms. Brewer** presented the system functionality for Molina and the recommendations from OPE. She stated providers file around 150,000 claims per week to Molina. A small number of claims are rejected immediately. The system then processes the claims resulting in a paid or denied claim. An average of 80% are paid by the system and 10% are denied. There have been some issues with claims being denied incorrectly and both Molina and DHW are working to address those problems.

There is also a significant concern about the amount of claims pending or in the backlog. The number of claims in the backlog has decreased since the system went live. Half of the claims in the backlog are pending for 30 or fewer days. Molina is meeting timely processing requirements. However, federal match rates will be permanently reduced in July of this year. That match rate is linked to the date the claim is actually paid, so it will be important to move out claims that have aged in the backlog before July. The system is mandated to become federally certified. The certification verifies that the system is working correctly and increases federal match rates for operations. Molina will receive \$3 million once the system is certified.

**Ms. Brewer** stated the recommendations from OPE to Molina. Those recommendations are to increase communication with providers; assign provider portfolios to their customer service representatives; strengthen measurement of system performance; and test, monitor, and measure system fixes. She stated the recommendations to DHW. Those recommendations are to delay payment to Molina for operations, require additional quality assurance measures, formalize terms of interim payments, include more specific requirements for future contacts, and monitor Molina's implementation efforts.

Supporting documents related to this presentation have been archived and can be accessed in the office of the Committee secretary (see attachment 1).

**Senator Heider** asked if DHW is trying to get back the \$2 million they are at risk to not recoup. **Ms. Lorenzo** answered DHW is currently taking a percentage of provider's weekly claims until their balances are paid. The \$2 million is from providers who are no longer in the system. **Senator Schmidt** asked if there was motivation to get providers to enroll before the system went live. **Ms. Lorenzo** replied the enrollment in the old system and the new system were different. The number of enrolled providers has increased significantly since the system went live. There were issues with providers not enrolling correctly and the enrollment system design not aligning with the provider's systems. **Senator Schmidt** asked if this has happened in other states when starting a similar new system. **Ms. Lorenzo** responded yes, this issue is not unique to Idaho.

**Vice Chairman Broadsword** asked if Molina had given any indication if the problem with pending claims could be solved by the deadline. **Ms. Brewer** replied that there will always be a certain number of claims pending. The normal amount of pending claims has not been identified, but it is a focus for Molina. **Senator Vick** asked if, at this time, the average is 10% pending and if that was higher than it should be. **Ms. Brewer** responded no, 10% of new claims pend; 150,000 claims are entered in the system weekly, half of those pend, and by the end of the week, 10% remain pending. The backlog has decreased since going live, but **Ms. Brewer** cannot speak as to what is normal. **Senator Vick** noted the complaints he has heard from providers is that they are not getting paid on time and asked what the specifics are for the system to be certified. **Ms. Brewer** said certification usually requires a system be in place for a certain amount of time. OPE did not go through the checklist for certification but DHW has hired a consultant to work through that checklist.

**Senator Darrington** asked if DHW was unprepared and incompetent to handle the new system when it went live and if they were overwhelmed. **Ms. Lorenzo** responded yes. The contract provisions were not clear enough to ensure system success and not enough was done to prepare. **Vice Chairman Broadsword** noted that she read in the handout on page 20 that on the weekend of February 27th 48% of claims automatically started pending and by the weeks end those claims were at 19%. She asked where the difference between that 19% and the 10% average **Ms. Brewer** spoke of came from. **Ms. Brewer** answered 19% was for the weekend of February 27th only and 10% is the average overall.

**Chairman Lodge** thanked **Mr. Mohan**, **Ms. Lorenzo**, **Ms. Brewer**, and OPE for their work on this evaluation. She called **Del Bell**, Account Manager, Molina Healthcare, Inc, to the podium to address questions from the Committee. He stated that he would like to recognize the work done by OPE and he appreciates all the effort they put into this evaluation. **Mr. Bell** stated that it is a fair report and he agrees with the recommendations given.

**Chairman Lodge** asked how things are going for Molina now. **Mr. Bell** answered that things are improving and where Molina is at is significantly better than where they started. However, there are still challenges ahead. **Vice Chairman Broadsword** asked if **Mr. Bell** could estimate how long it would take before the aged pending claims were cleared. **Mr. Bell** responded that Molina is working diligently and they are aware of the issues. They predict in the next couple of weeks to be able to address these problems and move those claims out of the backlog. **Senator Schmidt** noted that the recommendation; to test, monitor, and measure system fixes was pretty standard and asked why it was given when Molina should have been doing this all along. **Mr. Bell** replied that they have always had a procedure to do these things, but it is not as thorough as it could be. **Senator Schmidt** asked if there have been similar problems in other states. **Mr. Bell** answered that all system implementations have challenges, especially systems of this size and complexity.

**Chairman Lodge** asked if the problem with aged claims pending will be solved by the deadline. **Mr. Bell** replied yes, that is what Molina anticipates. **Chairman Lodge** asked if **Mr. Bell** felt the providers sending in claims are coding things better than they did at the beginning. He responded that the issue was not with the providers, the challenge was in making the transition to the new system. He stated that in hindsight, Molina could have done a better job with outreach and training prior to the implementation of the new system. **Chairman Lodge** asked when Molina purchased the company who previously processed Medicaid claims. **Mr. Bell** answered May 1, 2010, thirty days before the system went live. **Chairman Lodge** asked if the former company should have done more work to inform providers of the upcoming change. **Mr. Bell** responded there were a number of areas that could have been improved in that perspective. **Chairman Lodge** asked if **Mr. Bell** was located in the area. He answered that he currently resides in Boise.

**Senator Vick** asked if Molina handled this type of system elsewhere in the country. **Mr. Bell** replied from a managed care perspective, yes. **Senator Vick** asked if **Mr. Bell** had history on the normal amount of pending claims from other systems and if Molina had a goal as to the number of average pending claims. **Mr. Bell** answered no, at this point the pending claim percentages are in line with the previous system, but he cannot say what is normal. The goal is to reduce the age of current claims in the backlog. **Vice Chairman Broadsword** noted she received an e-mail stating Molina had a call center based in India and asked **Mr. Bell** if that was true. He replied most of the Molina call center staff is located in Boise, there is a second staff located in Arizona. The intention is to move them all to Boise eventually. **Chairman Lodge** asked if Molina had doubled their call center staff prior to the system going live. **Mr. Bell** responded yes.

**Chairman Lodge** thanked **Mr. Bell** for attending the meeting to represent Molina and answering questions from the Committee. She called **Richard Schultz**, Administrator, Division of Welfare, DHW, to the podium to address questions from the Committee. He stated that DHW agrees with OPE's evaluations and recommendations and compliments them on their hardwork.

**Chairman Lodge** thanked **Mr. Schultz** for his service to Idaho. **Senator Darrington** asked how the contract payment was structured. **Mr. Schultz** answered that it is a combination. During the development phase there were project deadlines and deliverables that had to be met before payment was given. **Senator Vick** asked what is being done about the recommendation to delay payment to Molina. **Mr. Schultz** responded that has been done.

**ADJOURNMENT:** **Chairman Lodge** thanked **Mr. Schultz** for attending the meeting and answering questions. She stated that in the interest of time the presentation from Idaho Alzheimers Planning Group scheduled on today's agenda will be held until Monday and adjourned the meeting at 2:55 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary

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Alyssa Horton  
Assistant Secretary

**AMENDED #1 AGENDA**  
**SENATE HEALTH & WELFARE COMMITTEE**  
**1:30 P.M.**  
**Room WW54**  
**Monday, April 04, 2011**  
**PLEASE NOTE TIME CHANGE**

<b>SUBJECT</b>	<b>DESCRIPTION</b>	<b>PRESENTER</b>
<a href="#"><u>H 310</u></a>	<b>Relating to the Indigent Sick</b> Proposed by Catastrophic Health Care Board - Amending Section 20-605, Idaho Code to revise terminology and a code reference; Changes some references to Chapter 35, Title 31, Idaho Code, providing technical cleanup and updates throughout.	Tony Poinelli
<a href="#"><u>S 1194</u></a>	<b>Relating to Medicaid</b> Amending Section 56-1408, Idaho Code, as amended in Section 18 of H 260, to remove an exception.	Senator Dan Schmidt
<b>Presentation</b>	<b>Idaho Alzheimers Planning Group</b>	Mike Berlin, Troy Rohn, Sarah Toevs, and Louise Berlin
<b>Minutes Approval</b>	Minutes of the Joint Meeting of March 8, 2011	Senators Nuxoll and Bock
<b>Minutes Approval</b>	Minutes of the Meeting of March 21, 2011	Senators Schmidt and Heider
<b>Minutes Approval</b>	Minutes of the Meeting of March 24, 2011	Senators Darrington and Bock
<b>Minutes Approval</b>	Minutes of the Meeting of March 28, 2011	Senators Nuxoll and Schmidt
<b>Minutes Approval</b>	Minutes of the Meeting of March 30, 2011	Senators Heider & Bock
<b>Minutes Approval</b>	Minutes of the Joint Meeting of January 17, 2011	Senator Broadsword
<b>Minutes Approval</b>	Minutes of the Meeting of January 19, 2011	Senator Broadsword
<b>Minutes Approval</b>	Minutes of the Joint Meeting of January 19, 2011	Senator Broadsword
<b>Minutes Approval</b>	Minutes of the Joint Meeting of January 20, 2011	Senator Broadsword
<b>Minutes Approval</b>	Minutes of the Joint Meeting of January 24, 2011	Senator Broadsword

***If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.***

COMMITTEE MEMBERS

Chairman Lodge  
Vice Chair Broadsword  
Sen Darrington  
Sen Smyser  
Sen Heider  
Sen Vick  
Sen Nuxoll  
Sen Bock  
Sen Schmidt

COMMITTEE SECRETARY

Lois Bencken  
Room: WG48  
Phone: (208) 332-1319  
email: lbencken@senate.idaho.gov

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, April 04, 2011

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/ EXCUSED:** Senator Heider

**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.

**MINUTES:** **Chairman Lodge** called the meeting to order at 1:35 p.m. and welcomed guests.

**H 310** **Relating to Indigent Sick: Tony Poinelli**, Idaho Association of Counties, stated this legislation is being proposed by the Catastrophic Health Care Cost Board and provides the following: 1. Changes some references to Chapter 35, Title 31; 2. Provides technical cleanup and updates throughout; 3. Specifies that an individual requesting financial assistance needs to be a resident of the state to be eligible; 4. Clarifies some existing definitions and creates new definitions of completed application, medical claim and third party insurance; 5. Clarifies that to be medically indigent a patient cannot have income or resources from any source sufficient to pay for medical services; 6. Clarifies that the reimbursement rates in effect at the time services are delivered will be paid at 95% of that rate for 2 years; 7. Under resources, adds Section 1011 as a potential resource which would reimburse emergency medical costs for undocumented persons (for Idaho there is a limited amount of funds); 8. Under utilization management, clarifies that the reimbursement rate is applied to the Utilization Management (UM) recommendation to determine reimbursement; this again specified in several sections; 9. Clarifies some of the powers of the county commissioners and CAT board; 10. Clearly identifies the combined application and notice of lien; 11. Specifies that the combined application must be signed and who can sign; 12. Clarifies the timeline for filing an application to determine Medicaid eligibility; also that the application process and timelines must be complied with; 13. Clarifies that the county or CAT Fund can conduct utilization management of any portion; 14. Clarifies that hospitals need to apply for the Section 1011 program or provide proof there is no available funding; 15. Enables the county and CAT to have joint subrogated interest for reimbursements or payments; 16. Clearly identifies some additional CAT responsibilities and allows for contracting or hiring individuals to operate the program; 17. Clarifies timeframe for filing applications, that completed applications must comply with the process and timelines in law, and specifies process when determining obligated county; 17. Clarifies the approval process for the CAT board, how much they should pay and the timeline for payment of claims; 18. Provides additional technical updates; and 19. New Section that prohibits personal identifying information from any UM reviewer from being disclosed.

**Mr. Poinelli** presented the Committee with a copy of the Combined Application for State and County Medical Assistance and Medicaid determination (see Attachment #1). He noted that for an individual to be considered for County Indigent Medical Assistance certain sections of the worksheet must be filled out. Those include the cover sheet; page 1, provider information; page 2, information about the individual; page 9, which includes the rights and responsibilities of the individual; and page 10, the release of information. Page 10 is important because the county receives the application after the Department of Health and Welfare goes through them and they must conduct an investigation. They have 45 days to conduct the investigation and without the release signed, it makes it difficult to complete an investigation in time. He explained the remainder of the application relates to the Idaho Health and Welfare Medicaid program.

**Mr. Poinelli** reviewed the amendments that are requested in Section 4, paragraph 21, relating to the definition of a provider, and Section 13, relating to appeal rights. He noted that an unintended consequence related to this proposed legislation has just been identified and for that reason he requested the Committee send **H 310** to the 14th Order for Amendment.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee secretary (see Attachment #2).

**Senator Smyser** asked if the counties support this legislation. **Mr. Poinelli** responded yes. **Vice Chairman Broadword** asked if an indigent person refuses to give information, is the hospital then on the hook for the medical care. **Mr. Poinelli** advised that an individual has 31 days to submit an application to the Department of Health and Welfare and the Department than has up to 45 days to make a Medicaid determination and submit the application to the county. He stated it really behooves the hospitals to try to get as much information as possible to complete the application. If a county denies an application just because a box is not checked or something similar, he believes the CAT Board has authority to act on that. **Vice Chairman Broadword** further asked what happens if the patient refuses to provide a social security number or other information that the hospital needs. **Mr. Poinelli** stated there is potential for a denial for lack of cooperation. The application will then be forwarded to the county.

**Senator Schmidt** asked if the reimbursement rate referred to on page 6 of the bill takes H 260 into account. **Mr. Poinelli** stated that he was not sure if it did, but the CAT Fund does not get a lot of individual doctor claims, these are usually incorporated into the hospital bill. He advised that the unadjusted Medicaid rate is a rate that is established on a yearly basis and the CAT Fund pays whatever rate is established at that period of time. **Vice Chairman Broadword** asked why the reimbursement rate was not based on Medicare rates that are set by the federal government instead of Medicaid rates that are reauthorized every year. **Mr. Poinelli** advised that the CAT Board had looked at Medicare and Medicaid, and found Medicaid rates to be the best solution.

**Senator Schmidt** inquired how utilization management is used on a case by case basis. **Mr. Poinelli** responded that the CAT Board, through the Idaho Association of Counties, contracts with Idaho Medical Review for review of claims in excess of \$75,000. This is not mandatory at this time, but many counties are doing it. This review will look at the length of stay and types of treatment provided. Some counties also use this service to review non-emergency cases. **Senator Schmidt** further asked if there are cases in which payment for care is denied. **Mr. Poinelli** indicated that pre-authorization has been denied when the reviewer did not feel it was medically necessary and the case was not an emergency. In other cases

the reviewer has excluded some charges and then the current Medicaid rate was applied to the remaining bill.

**Senator Darrington** noted that an individual requesting financial assistance needs to be a resident to be eligible. He asked what happens to the non-residents who need hospital care. **Mr. Poinelli** advised that a 30-day residency must be established. If an individual is not a resident of the State and just passing through, the hospital would have to make a determination and likely be responsible for the bill. Idaho does, however, have reciprocal agreements with Utah and Oregon. **Senator Darrington** further asked if the income or resource limit is equal to an asset test. **Mr. Poinelli** answered yes, they do look at assets to determine eligibility. In the event an individual has the ability to pay the bill within five years, the county will deny the application.

**TESTIMONY:**

**Steve Millard**, President, Idaho Hospital Association (IHA), spoke **in support of H310** stating IHA has worked with the Idaho Association of Counties for years to clear up problems with this bill. They have addressed the necessary items in this new bill and IHA appreciates their efforts. He noted IHA also supports the use of Medicaid rates over Medicare rates, advising that Medicare rates are based on designated reimbursement rates (DRGs) and these do not work across the state as rural areas have different reimbursement rates.

**MOTION:**

**Senator Schmidt** moved, seconded by **Vice Chairman Broadsword**, to send **H310** to the 14th Order for amendment. The motion carried by **voice-vote**.

**S 1194**

**Relating to Medicaid. Chairman Lodge** noted that this bill was before the Committee last week and it was sent to the floor with a do pass recommendation; however, she had requested it be returned to the Committee for further discussion. **Senator Schmidt** stated that he agreed that there was not a full discussion last week. He stated this legislation removes the hospital assessment exemption for private hospitals placing them in the same category as all other hospitals except State Hospital North in Orofino, State Hospital South at Blackfoot and the Department of Veteran's Affairs Medical Center in Boise, which are exempt from the assessment required by Section 56-1404, Idaho Code. He introduced **Robert Kellerman**, Senior Financial Specialist, with the Department of Health and Welfare, Division of Medicaid, and provided the Committee with a chart of projected Medicaid assessments for Idaho's eight specialty hospitals. **Senator Schmidt** reviewed the Hospital Assessment Act which was an attempt to increase general funds in a way to amplify federal matching funds when Idaho was facing a decrease in general funds.

**Vice Chairman Broadsword** asked what the assessment does to hospitals that are already included in H 260 in comparison to what this bill asks of the specialty hospitals. **Senator Schmidt** deferred the question to **Mr. Kellerman** who advised they pay in more than they actually receive back. **Senator Darrington** noted that when the Hospital Assessment Act was passed, the hospitals were in agreement that it was to their benefit because they could access more Medicaid funds by contributing the assessment, and the only reason it passed was because these specialty hospitals were exempted out. He asked if these specialty hospitals would receive the same benefit the other hospitals do by paying the assessment. **Mr. Kellerman** responded that there would be a similar effect. **Senator Darrington** asked him to clarify that they would also benefit in a proportional sort of way with the assessment as the other hospitals in the state do. **Mr. Kellerman** responded that is correct. **Vice Chairman Broadsword** noted that on the summary chart it appears that Mountain View Hospital and Southwest Idaho Advanced Care Hospital would receive a benefit by participating in the assessment, but it would harm the other hospitals. **Mr. Kellerman** stated some hospitals will gain and some will lose. **Vice Chairman Broadsword** asked if it is true that if a hospital takes more Medicaid patients they will draw down more federal funds and actually profit from the assessment, and if they do not take enough Medicaid patients, they would be harmed. **Mr. Kellerman** advised that is correct.

**Senator Vick** noted that the Medicaid bill showed a savings of \$3.5 Million due to the hospital assessment, and asked if the hospitals had to eat that cost. **Mr. Kellerman** responded that was his understanding, but because they are drawing down matching funds they are able to leverage federal funds and they are not losing out entirely. They are actually leveraging money that they would not have been able to get.

**Chairman Lodge** called on **Mr. Millard** who reviewed the history of the Hospital Assessment Act. He stated under that Act most of the hospitals have been winners. He stated the bottom line for hospitals in the assessment program now under H 260, they will be putting up for FY 2012, \$28.5 Million beyond what they get back. **Vice Chairman Broadsword** asked how much of the \$28.5 Million is early cost settlement. **Mr. Millard** indicated some of it is early cost settlement. **Senator Vick** asked if by paying this assessment, the Hospitals are \$28.5 Million short of what they would have had they not paid the assessment? **Mr. Millard** responded that the hospitals basically pledged to help the State fill their Medicaid hole by the \$25 Million for FY 2011 and FY 2012. Had they not done that there would have been a straight cut of all Medicaid dollars, so the 30% that the hospitals put up to get the federal dollars actually gave them the ability to get the 70% return. So, it was a way to help the State and at the same time spread the burden over a fairly long period of time. **Senator Vick** asked what the hospitals would lose if this was not done. **Mr. Millard** advised that the \$25 Million would turn into \$75 Million because all those federal dollars would not be coming into the state, and it would be an economic burden on the state as well for the hospitals.

**TESTIMONY:**

**Larry Benton**, representing Northwest Specialty Hospital and Treasure Valley Hospital, stated that this is a very complicated system and is truly a tax assessment based on net revenues. He stated the hospitals he represents do not agree with the fiscal note on the Statement of Purpose. He noted that specialty hospitals are not members of the Idaho Hospital Association because they do not have emergency rooms, and that they do not have access to what goes on in that organization. They feel they are being included in a mandatory tax bill where the assessment would be far in excess of benefits.

**TESTIMONY:** **Jerry Deckard**, representing Northwest Specialty Hospital, advised that **S 1184** seeks to tax currently exempt hospitals by virtue of an agreement that was developed in 2008. He stated that there is nothing broke here and requested that the Committee hold this bill in Committee so that it can be closer examined in the future when everyone can have an opportunity to sit down and talk about it.

**Senator Darrington** asked if the figures on the projected specialty hospital summary chart are relatively accurate from his perspective. **Mr. Deckard** responded they are relatively accurate.

**TESTIMONY:** **Nick Genna**, Administrator, Treasure Valley Hospital, stated that all physicians on staff at Treasure Valley perform call coverage to the local hospitals for emergency room and the reason Treasure Valley does not have an emergency room is that the community is covered very well with the current emergency rooms. He stated the IHA requires members have an emergency room and for that reason Treasure Valley is not a member of IHA, but instead is a member of the American Hospital Association. He stated most of Treasure Valley's Medicaid patients are out patient and their Medicaid payments are not accurately reflected on the projected hospital summary chart. He stated the reimbursement under the Hospital Assessment Act would not favor Treasure Valley Hospital as the reimbursement is based on how many in patient Medicaid days the facility has. He stated this would be a tax without any recovery for his facility while the larger hospitals would receive a much bigger disproportionate share of reimbursement.

**Senator Vick** asked what the disproportionate share is. **Mr. Genna** indicated this is a calculation based on a facilities census and revenue in the various fields of Medicare and Medicaid and you are reimbursed at a higher rate based on those dollars.

**Senator Schmidt** stated he agrees that this is a tax issue. The hospitals get support from the State and they are taxed back in a way to minimize budget cuts and maximize returns to the hospitals. In his opinion we need to share that pain equally among the people who take those benefits. He requested support for **S 1194**.

**Senator Broadsword** noted that she understands **Senator Schmidt's** point of view but the hospitals are actually going to recover above the tax and the specialty hospitals may not see that benefit. **Senator Schmidt** stated that taxes should be fair, simple and transparent and this one is not simple. He stated that hospitals that receive Medicaid money should be involved in the assessment process. The process of making it more fair is the process of changing or tweaking or adjusting the assessment process rather than the exemption process.

**RULE 39H DECLARATION:** **Senator Smyser** noted that pursuant to Senate Rule 39H she may have a potential conflict with **S 1194**, but indicated she does intend to vote on the matter.

**MOTION:** **Senator Bock** moved that the Committee send **S 1194** to the floor with a do pass recommendation. The motion failed for lack of a second.

**Chairman Lodge** noted that the specialty hospitals receive approximately \$28 Million in Medicaid funding and suggested that the parties get together and try to come to a resolution in this matter.

**PRESENTATION:** Time did not permit the presentation planned by the Idaho Alzheimer's Planning Group, but the group was introduced and answered a few questions from the Committee. **Chairman Lodge** advised that the Committee would look forward to a full presentation at the beginning of the next session.

**APPROVAL OF MINUTES:** **Senator Schmidt** moved, seconded by Senator Bock, that the minutes of the meetings held on March 21 and March 28, 2011 be approved as written. The motion carried by voice vote.

Senator Darrington moved, seconded by Senator Broadsword, that the minutes of the meeting of March 24, 2011 be approved as written. The motion carried by voice vote.

Senator Nuxoll moved, seconded by Senator Vick, that the minutes of the joint meeting of March 8, 2011 be approved as written. The motion carried by voice vote.

Senator Broadsword moved, seconded by Senator Vick, that the minutes of the joint meetings of January 17, January 19, January 20 and January 24, be approved as written, and the minutes of the meetings of January 19 and March 30, 2011 be approved as written. The motion carried by voice vote.

**Chairman Lodge** thanked the Committee Page, T. J. Platt, for the support he provided the Committee and presented him with a box created by Representative Max Black from the trees that were removed from the Capitol grounds during renovation. She also presented Alyssa Horton with a gift for her support in preparation of minutes for the Committee during this session.

**ADJOURNMENT:** There being no further business to come before the Committee, the meeting was adjourned at 3:10 p.m.

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Senator Lodge  
Chairman

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Lois Bencken  
Secretary