

MINUTES
HOUSE STATE AFFAIRS COMMITTEE

DATE: Wednesday, February 22, 2012

TIME: 9:00 A.M.

PLACE: Room EW40

MEMBERS: Chairman Loertscher, Vice Chairman Crane, Representative(s) Stevenson, Black, Anderson, Andrus, Bilbao, Luker, Palmer, Simpson, Guthrie, Henderson, McGeachin, Sims, Batt, Smith(30), King, Higgins, Buckner-Webb

**ABSENT/
EXCUSED:** Representative Stevenson

GUESTS: Jesse Taylor, Westerberg & Associates; Russell Westerberg, Westerberg & Associates; Doug Okuniewicz, CDA Racing; Elizabeth Criner, Pfizer; Joie McGarvin, Westerberg & Associates; Heidi Low, American Cancer Society Cancer Action Network (ACSCAN); Kathie Garrett, Idaho Academy of Family Physicians.
Chairman Loertscher called the meeting to order at 9:01 a.m.

RS 21310: **Rep. McGeachin** presented **RS 21310**, a proposed resolution to reject a pending rule docket of the Department of Health and Welfare relating to rules of the EMS physician commission. There is a conscientious difference in Idaho between those who serve voluntary and paid EMS personnel. The new guidelines were believed to be too cumbersome for rural areas.

In response to questions, **Rep. McGeachin** stated that if these rules are rejected, EMS will operate using existing guidelines.

MOTION: **Rep. Luker** made a motion to introduce **RS 21310** and send it directly to the Second Reading Calendar.

SUBSTITUTE MOTION: **Rep. King** made a substitute motion to introduce **RS 21310**.

VOTE ON SUBSTITUTE MOTION: **Chairman Loertscher** called for a vote on the substitute motion to introduce **RS 21310**. **Motion failed by voice vote.**

VOTE ON ORIGINAL MOTION: **Chairman Loertscher** called for a vote on the motion to introduce **RS 21310** and send it directly to the Second Reading Calendar. **Motion carried by voice vote.** **Rep. McGeachin** will sponsor the bill on the floor.

RS 21311: **Rep. McGeachin** presented **RS 21311**, a proposed resolution to reject a subsection in a pending rule of the Department of Health and Welfare relating to Residential Habilitation Agencies. **RS 21311** proposes to reject a set of rules that are applicable to the Medicaid process, specifically surveys that Residential Habilitation Agencies must complete and report back to Medicaid. Rep. McGeachin explained **RS 21311** will ensure that IDAPA 16.04.17, Department of Health and Welfare, Residential Habilitation Agencies, Section 404, Subsection 04 be rejected by both the Senate and the House.

MOTION: **Rep. Bilbao** made a motion to introduce **RS 21311** and send it directly to the Second Reading Calendar. **Motion carried by voice vote.**

RS 21335:

Rep. McGeachin presented **RS 21335**, a proposed resolution to urge the Department of Health and Welfare to promulgate a rule relating to Medicaid program coverage of tobacco cessation services for children and pregnant women. The Patient Protection and Affordable Care Act (PPACA) mandates tobacco cessation therapy. The Health and Welfare committee rejected the rulemaking docket of the Department of Health and Welfare governing coverage of tobacco cessation products for pregnant women out of a concern for the safety and effectiveness of pharmacotherapy. Rep. McGeachin stated **RS 21335** recommends the Department of Health and Welfare promulgate a rule relating to tobacco cessation services for children and pregnant women that incorporates the recommendations for pregnant women contained in the 2008 Public Health Service Guideline.

In response to questions, **Rep. McGeachin** stated that although this practice is a requirement mandated by the PPACA, a letter from CMS to Medicaid in June of 2011, offers flexibility at the state level.

MOTION:

Rep. Bilbao made a motion to introduce **RS 21335**. **Motion carried by voice vote.**

H 536:

Rep. Henderson presented **H 536**, proposed legislation to prevent non-resident simulcast companies with advance deposit wagering affiliates from discriminating against Idaho simulcast licensees. Rep. Henderson stated **H 536** is a jobs protection bill that protects Idaho jobs as well as the employers. Rep. Henderson stated there are two ways to wager on horse racing in Idaho. The first is through advance wagering where a person deposits a sum of money with the company and then places bets either by phone or computer. The second option is to go to a facility where they have simulcast racing and participate in pari-mutuel betting. Rep. Henderson stated there are three facilities located throughout Idaho, one in Post Falls, Boise, and Idaho Falls. These facilities have full-time employees and serve a special interest of those who want to wager. Advance wagering companies do not have any employees in Idaho, they pay no license fees, and they do not contribute to the Idaho Horseman's Fund.

Russell Westerberg, Westerberg & Associates, testified in **support of H 536**.

Mr. Westerberg stated the purpose of **H 536** is to prevent Advanced Deposit Wagering (ADW) providers that are also affiliated with a track or tracks that export signals used for simulcast, pari-mutuel wagering at Idaho's three facilities, from attempting to recover the ADW source market fee through increased signal costs. Simulcast operations are conducted via a signal provided for a fee by the track where the race is being run. From the licensee's 18% of the betting pool, the signal fee is paid. Advanced Deposit Wagering which was authorized in 2003, allows a person to contact an ADW provider, establish an account, and place bets with that ADW provider on races over the internet from the comfort of their home. Organizations providing ADW in Idaho are required to be licensed by the Idaho Racing Commission. Mr. Westerberg testified that in recognition that ADW would probably cause more folks to stay at home and bet on horse races on the internet rather than patronize an Idaho simulcast operation, a source market fee of 10% is remitted by the ADW to the racing commission and distributed in accordance with current Idaho Code. Recently, simulcast signal providers in Kentucky and California that provide signals to Idaho locations and also offer ADW have been attempting to recoup their source market fee by increasing the fee charged for the signal sent to Idaho simulcast operations. Mr. Westerberg noted that the fees charged for the signal from Churchill Downs in Kentucky started out at 3%. They are now up to 8%. Comparable increases are being charged to Idaho operations by a California signal provider. These fees have increased disproportionately to fees charged in other states by the same signal provider. **H 536** will require signal providers that also operate ADW in Idaho to obtain an agreement with every Idaho licensed simulcast operator as a condition of receiving an ADW license from the Idaho

Racing Commission. **H 536** will prevent ADW from increasing signal rates for the purpose of forcing Idaho simulcast licensees out of business.

In response to questions, **Mr. Westerberg** stated that signal providers that also operate ADW will be required on an annual basis to apply for a license and provide proof that they have negotiated an agreement with Idaho's racing facilities. Mr. Westerberg stated that if a signal provider cannot negotiate an agreement, they can be denied a license. Some of these providers may not comply with **H 536**, but there are a variety of ADW providers and only some organizations provide both ADW and simulcast operations. Without this proposed legislation, if the signal providers and the ADW continue to raise the fees, then Idaho's three racing facilities can no longer pay their employees and cover their overhead expenses.

MOTION: **Rep. Higgins** made a motion to send **H 536** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Henderson** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee; the meeting was adjourned at 9:38 a.m.

Representative Loertscher
Chair

Lissa Cochrane
Secretary