

MINUTES  
**HOUSE STATE AFFAIRS COMMITTEE**

**DATE:** Tuesday, March 13, 2012

**TIME:** 8:30 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:** Representatives Crane, Anderson, Bilbao, McGeachin, Higgins

**GUESTS:** Jason Herring and Kerry Uhlenkott, Right to Life of Idaho; Landis Rossi, Roman Catholic Diocese of Boise; Dennis Stevenson, Administrative Rules Coordinator; Julie Lynde, Cornerstone Family Council; Monica Hopkins, American Civil Liberties Union (ACLU) of Idaho; Bev Warnecke, citizen

**Rep. Loertscher** called the meeting to order at 8:33 a.m.

**SJM 104:** **Sen. Sheryl Nuxoll** presented **SJM 104**. She stated that on January 20, 2012, the US Department of Health and Human Services (HHS) under Secretary Kathleen Sebelius reaffirmed a rule which forces virtually all private health care plans to cover sterilization, abortifacients, and contraception. She noted that in August 2011, the HHS also issued a list of preventive services for women, which are to be provided for within private health care plans. This list would encompass sterilization and all FDA approved birth control, including the intra-uterine device (IUD) and abortion-inducing drugs such as RU 486, morning-after pills and Ella. The coverage must also include the education and counseling to promote these contraceptives among all women of reproductive capacity. Sen. Nuxoll said nonprofit religious or other employers that do not now provide the coverage, and are not exempt under the narrow definition of religious employer, must comply by August 1, 2013. She indicated that the HHS mandate was the greatest attack on unborn children and the right to life since the Roe v. Wade decision in 1973.

In reference to the economic and social consequences, **Sen. Nuxoll** said that Catholic Charities, America's largest private network of social service organizations, having 70,000 employees, would pay \$140M a year in fines if they did not comply with the ruling. She stated that hundreds of faith-affiliated hospitals will be forced to close. Sen. Nuxoll noted that Idaho's Attorney General (AG) has expressed strong opposition to the HHS mandate and has joined with AGs from Florida, Louisiana, Maine, North Dakota, Ohio, Oklahoma, South Dakota and Colorado in fighting the federal mandate. She explained that according to a lawsuit filed against the Obama Administration, the federal mandate would require an "on going, comprehensive government surveillance" of private institutions and employers.

**Jason Herring**, Right to Life of Idaho, spoke in support of **SJM 104**. He said that the legislation was safeguarding individual religious freedom and was in agreement with Idaho's Conscience Law. He noted that he was representative of those who oppose abortifacients that are packaged under the guise of contraception and that abortion is not health care. He said that the HHS mandate is only the beginning of encroachment on the moral convictions and religious liberties of the American people. He remarked that it would only be a matter of time before all elective abortions are placed on the list of preventative services to be covered by every health plan.

Responding to questions from the committee, **Mr. Herring** said that the Idaho Conscience Law would be overridden by the federal rule. In response to further questions, he agreed that persons of faith can be religious and still wish to support the HHS Rule. He also stated that the executive order mandated governance of something that is not in the Patient Protection and Affordable Care Act signed into law on March 23, 2010.

**Kerry Uhlenkott**, Legislative Coordinator, Right to Life of Idaho, spoke **in favor of SJM 104** stating that the HHS mandate would force virtually all religious people and groups to pay for sterilizations and contraceptives, including abortion-inducing drugs. She said that the matter centered on forcing employers and institutions to provide health coverage when that coverage paid for processes or prescription use contrary to their beliefs.

**Monica Hopkins**, Executive Director, ACLU, testified **in opposition to SJM 104** stating it would impose religious discrimination on millions of American women. She said that religious liberty is not being challenged. The HHS rule allows employers to qualify for religious exemptions under four criteria: (1) their purpose must be to inculcate religious values, (2) they have to primarily employ people who share their faith, (3) they have to primarily serve people who share their faith, and (4) they must be nonprofit organizations. She stated that 28 states already require insurance plans to include contraception. She noted that the HHS rule was not in violation of First Amendment rights nor religious freedom, but that **SJM 104** was sex discrimination.

In response to questions from the committee, **Ms. Hopkins** said that the price of birth control can range from nine to fifty dollars per month depending on the type of contraception and that economic stress causes women to forego purchasing contraceptives. She also said she did not know if the HHS rule would override the State Conscience Law. Responding to an additional question regarding the First Amendment rights of employers, she stated that when employers act within the public sphere they have to play by the public rules. In response to a further question concerning if an abortion could be considered a means of contraception, Ms. Hopkins said she would have to ask a health care professional.

**Landis Rossi**, Roman Catholic Diocese of Boise, spoke **in favor of SJM 104**. She explained that she spoke on behalf of Bishop Michael Driscoll and concerned Catholics throughout the state. She said that strong legislative action on the federal level is needed to correct the threats to religious liberty and conscience rights posed by the HHS mandate. She also explained that **SMJ 104** would ensure that those who participate in mandatory health insurance coverage retain the right to provide, purchase, or enroll in health coverage that is consistent with their religious beliefs and moral convictions. **Julie Lynde**, Executive Director of Cornerstone Family Council, also spoke **in favor of SJM 104** indicating that First Amendment rights would be violated by the HHS mandate and that un-elected bureaucrats are writing agency regulations, which are imposed upon citizens by executive order.

**Bev Warnecke**, citizen, asked the committee if they knew why McDonalds could be exempt under the HHS Rule, but Catholics could not. **Chairman Loertscher** stated that it was not known.

**Sen. Nuxoll** was called upon to close debate on **SJM 104**. She said that the federal mandate forced all companies, private and public, to provide insurance for contraception. She said that the HHS Rule is discriminatory and that our forefathers wanted freedom from religious discrimination.

**MOTION:**

**Rep. Simpson** made a motion to send **SJM 104** to the floor with a **DO PASS** recommendation.

- ROLL CALL VOTE:** **Rep. Buckner-Webb** requested a roll call vote to send **SJM 104** to the floor with a **DO PASS** recommendation. **Motion passed by a vote of 11 AYE, 3 NAY, 5 Absent/Excused.** **Voting in favor** of the motion: **Reps. Loertscher, Stevenson, Black, Andrus, Luker, Palmer, Simpson, Guthrie, Henderson, Sims, and Batt.** **Voting in opposition** to the motion: **Reps. Smith(30), King, and Buckner-Webb.** **Reps. Crane, Anderson, Bilbao, McGeachin, and Higgins were absent/excused.** **Rep. Bilbao** will sponsor the bill on the floor.
- SCR 128:** **Dennis Stevenson**, Administrative Rules Coordinator, presented **SCR 128.** He stated that since the Legislative Committees have approved the rules from all agencies with the exception of IDAPA 24.25.01, Bureau of Occupational Licenses, IDAPA 07.01.07 and 07.02.05, Division of Building Safety, it was before the committee to approve the remaining 2012 Administrative Rules.
- MOTION:** **Rep. Luker** made a motion to send **SCR 128** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Buckner-Webb** will sponsor the bill on the floor.
- SCR 129:** **Dennis Stevenson**, Administrative Rules Coordinator, presented **SCR 129** stating that the legislation would block the expiration of existing temporary rules.
- MOTION:** **Rep. Guthrie** made a motion to send **SCR 129** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Smith (30)** will sponsor the bill on the floor.
- MOTION:** **Rep. Batt** made a motion to approve the minutes of the March 1, 2012 meeting. **Motion carried by voice vote.**
- ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 9:40 a.m.

---

Representative Loertscher  
Chair

---

Jean Vance  
Secretary