

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Wednesday, February 13, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Martin, Lakey, Bock and Schmidt

ABSENT/ EXCUSED: Senator Guthrie

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairmen Heider** called the meeting to order at 3:00 p.m. and welcomed the audience. A silent roll was taken.

HEARING: **Chairmen Heider** welcomed Senator Kenyon to the committee, stating that he is substituting for Senator Martin. He announced first on the agenda was committee consideration of the gubernatorial appointment of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel. He stated the committee had heard from Mr. Kunze the previous day and inquired as to the disposition of the committee.

MOTION: **Senator Hagadorn** moved to send the gubernatorial appointment of Mr. Kunze to the floor with the recommendation that he be confirmed by the Senate. **Senator Nuxoll** seconded the motion. The motion was carried by **voice vote**.

HEARING: **Senator Heider** invited Curt Fransen to the podium to introduce Carol Mascarenas and Beth Elroy.

Curt Fransen, Director of the Idaho Department of Environmental Quality, stated that it was his pleasure to introduce two of the Governor's appointees to the Board of Environmental Quality (Board). He stated that the first is Carol Mascarenas who was first appointed to the Board, and confirmed by this committee, to serve a four year term between 2008 and 2012. He stated she was reappointed by the Governor this past summer for a term that will end in 2016. He stated that she is currently the Chair of the Board. He stated that the second appointee is Beth Elroy, who was appointed by the Governor this past summer for her first four year term that will also run until 2016. He stated he is confident that both the materials provided and the statements from Carol Mascarenas and Beth Elroy will demonstrate the high quality of these individuals to serve on the Board of Environmental Quality.

Chairman Heider welcomed Carol Mascarenas and asked to hear from her regarding her qualifications.

Carol Mascarenas stated that she has lived in Idaho for twenty-two years. She moved from California after meeting her husband who had lived in Soda Springs and wanted to return. She has two children: a daughter, 16, and a son, 18. Professionally, she has a Bachelor's Degree and a Professional Engineering License in Civil Engineering with an environmental emphasis. She has 28 years of work experience, 22 of which was in hazardous environmental clean-up, environmental compliance and waste management. She also spent 3 years as the Director of Safety, Health and Occupational Medicine at Idaho National Laboratory (INL), and she is currently the Deputy Director for Environmental Safety and Health for Battelle Energy Alliance with INL. Highlights of her work experience as it relates to the board assignment are that she has worked as a state regulator, a private consultant helping potentially responsible clients manage clean-up requirements, also industry (Battelle Energy Alliance), and a government contractor for DOE. This experience has given her a balanced perspective on all sides of the issue regarding environmental regulations; from being a regulator to helping clients comply with regulations. While she was the INL regulatory director, she also served as the INL liaison to the Environmental Management Advisory Board for the state of Idaho. She toured the board at INL and feels that experience gave her a good perspective of what citizens are concerned about. In sum, she believes that her technical qualifications as well as her work and experience gives her a balanced perspective that she can bring to the Board of Environmental Quality. She referenced Mr. Fransen and reminded the committee that this would be a reappointment to the Board.

Senator Schmidt inquired if there are times when it is difficult to balance the different interests surrounding the environmental issues she faces. **Ms. Mascarenas** responded it is hardest concerning contested cases and trying to balance the concerns of the department, and their role in the case, what they bring to the table, and their approach while also understanding the other side, the party bringing the contested case. She stated this is when her experience is brought to bear.

Chairmen Heider thanked Ms. Mascaranas for her testimony and the time she has served on the Board, and welcomed Beth Elroy to the podium.

HEARING:

Senator Hagedorn thanked Ms. Elroy for her willingness to join the board and stated she has an impressive resume. He inquired as to what has surprised Ms. Elroy the most since beginning her board experience. **Ms. Elroy** responded that she has attended two board meetings and the level of professionalism at Department of Environmental Quality (DEQ) has surprised her. Even though she has worked with DEQ in her past, she didn't have a good appreciation for what went on behind the scenes. Her experience with the director and his staff has impressed her. She stated she wouldn't say it surprised her, but she has really enjoyed getting to know more about the department over the last couple months.

Chairman Heider inquired as to what Ms. Elroy thought are the larger issues facing DEQ. **Ms. Elroy** responded the first is attracting and retaining top quality employees. She thinks it is very important the employees and DEQ receive the proper training and ongoing education to help them understand the issues facing businesses in Idaho from the environmental perspective, from greenhouse gas emissions to water issues. The second issue, which is going to be a demanding issue for the department, is primacy on water permitting. This is something that the regulated community has talked about for years, whether or not the state of Idaho should pursue primacy for National Pollutant Discharge Elimination System, the water permitting program. She sees this as an issue that the department will have to work through during the negotiated rulemaking process over the next couple years.

Chairman Heider thanked Ms. Elroy. He announced Loel Fenwick was next to speak to the committee, for the second time, in regards to his perspective on health care coverage in Idaho. He directed Mr. Fenwick to keep his presentation to 20 minutes.

PRESENTATION: Dr. Loel Fenwick thanked the committee for allowing him to describe his free enterprise pilot program. He stated that last time he was before them, he told them that the health care system had become unsustainable. The top-down management strategy is being abandoned around the world, including in China. **Dr. Fenwick** stated that he helped the Chinese develop a free market system two years ago, because it was recognized as the most effective way to provide for the consumer. He stated that the cost of health care has been growing at an unsustainable rate. It now costs nearly twenty percent of our Gross National Product (GNP), or about three trillion dollars, with forty-two percent of that wasted on overhead. This has placed a burden on the American family, which spends an average of twenty-one thousand dollars a year on health care costs. This drains the savings of Americans and keeps many from reaching the middle class.

He showed a breakdown of current health care cost, and illustrated that less than half of costs go towards paying for necessary medical expenses. The free enterprise system that he proposes works the same way as the market for computers, cars or houses. This allows an elimination of much of the overhead and cuts the cost of Idaho's health care costs by about nine billion dollars as well as saves the consumer about two hundred thousand dollars by the time they reach retirement. He showed a picture of his family and stated that they have been able to avoid buying health insurance by setting aside assets which has saved them thousands of dollars. He stated that each family should be able to do this and save themselves money as well as encourage savings for Idaho industries and the state.

He stated the idea of the pilot program was developed a few years ago. He stated the new federal program seeks to make the current system sustainable through the individual insurance mandate and health insurance exchanges. The changes under the Affordable Care Act require a federal enforcement agency that serves a massive federal data hub. This structure looks like a spider web that includes five agencies; the Health and Human Services, Internal Revenue Service (IRS), Social Security, Department of Human Services, and the Department of Justice. It is described as a free market insurance system but it is really not about insurance at all, rather it is a registration and enforcement system for national health care. He furthered it is the way individuals will register and the way the IRS will enforce penalties for noncompliance, and urged caution in regard to the system.

He stated this system will cost Idaho seventy percent more in health care costs because that is the projected inflation. This system will cost the state millions of dollars to run the exchange. He stated that the system nationally will increase the cost of health care and there is currently no adequate plan to cover those cost increases. He continued by stating that Idaho should not help perpetuate a failed system but should replace it with something that works. He advised the committee that there are two choices: 1) enable ObamaCare to survive at the cost of six billion dollars to the state of Idaho, and increase health care costs for the Idaho family to thirty-five thousand dollars per year from the current twenty-one thousand dollars; or 2) the alternative is to implement this pilot program, which would save three and a half billion dollars. He stated this choice wasn't about what type of exchange we should have, but rather what will allow Idaho to develop and what would work for this state.

He stated Idaho should be an example for the nation. He warned that if the federal government allows Idaho to set some conditions under S 1042, they may pass laws in the future that would not allow those conditions. He referenced a statement by Supreme Court Justice John Roberts, which stated the federal government has no power to order people to buy health insurance. **Dr. Fenwick** advised that the only thing the Court had ruled on was the ability of the federal government to tax. The federal government needed the states' involvement to legally implement this health care reform, but the states would have little control over the program. He furthered that Justice Roberts suggested that the states need to recognize their role in checking the power of the federal government and not yield to the pressure to implement this form of health care reform. **Dr. Fenwick** stated that the common sentiment that if we don't implement an exchange we will be breaking the law is untrue, that it is also important to uphold the United States Constitution and Idaho's Constitution. He stated the best course, at this stage, is to wait to see how the reform plays out in the courts.

Dr. Fenwick stated that we should step back and consider alternatives which include his plan as well as a proposal by Senator Thayne and the ideas of Vice Chairman Nuxoll. He stated it was important to protect the state of Idaho. He warned that any form of ObamaCare would be expensive and Idaho should not think it will be subsidized by the federal government because they don't have any money. He stated that if his pilot program could be implemented across the nation like his maternity care program was it would save the nation two trillion dollars. He urged the legislators to consider his plan not as a political issue, but as a viable option to health care reform.

Senator Hagedorn stated that he is not seeing an outline of a program that would accomplish the things Dr. Fenwick talked about; he furthered that he does not understand why legislative action would be required if this program is a free market solution. He stated that until he can see a viable program, he only sees two options. He stated he doesn't want the federal government coming into Idaho, but doesn't see another alternative to a state-based exchange. **Dr. Fenwick** responded that most legislators haven't seen a complete presentation of the program and offered to give Senator Hagedorn and all the members of the committee a sixty page summary of the program, which is all a power point presentation, so it is like reading ten pages. He stated that it has been vetted by think tanks, and he is available to answer any questions.

Vice Chairman Nuxoll asked Dr. Fenwick to give a simple explanation of how the program works. **Dr. Fenwick** responded that instead of paying eight hundred thousand dollars in insurance over a lifetime, of which only two hundred thousand dollars on average is paid in medical expenses, five hundred thousand dollars is placed in an account. That account is owned by the individual and that individual can go shopping for medical services. He described how members of his family have done this, which has allowed them to negotiate prices and save money.

Vice Chairman Nuxoll inquired as to how the money gets into their account. **Dr. Fenwick** described how employers pay the majority of insurance premiums. To start, employers could put in a certain amount of money, which could be less than what they would pay for insurance premiums. It would save them money as well as the individual. Catastrophic insurance would only have to be purchased to cover what the account wouldn't and as the account grows, less of this insurance would have to be purchased.

Chairmen Heider thanked Dr. Fenwick. He asked the committee if anyone would like to carry the confirmation of Beth Elroy on the floor. **Senator Hagedorn** stated that he would like to.

ADJOURNED: Chairman Heider adjourned the meeting at 3:44 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary