

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 14, 2013

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Nuxoll, Senators Lodge, Hagedorn, Guthrie, Martin, Lakey, 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.

CONVENED: **Chairman Heider** convened the meeting at 3:02 p.m.

RS 22035 **Chairman Heider** said the first item on the agenda was in regard to **RS 22035**, which is relative to behavioral health and was sent to the committee by Ross Edmunds, Administrator of the Division of Behavioral Health for the Idaho Department of Health and Welfare. **Chairman Heider** said the committee did not need to read through it, but that **RS 22035** needed a unanimous consent to send it to the privileged committee of the Senate Judiciary and Rules Committee. **Senator Hagedorn** asked if **RS 22035** was seen previously by the Senate Health and Welfare Committee. **Chairman Heider** said, no, it was a new bill.

UNANIMOUS CONSENT: **Chairman Heider** asked for unanimous consent to send **RS 22035** to the Senate Judiciary and Rules Committee for a print hearing. There was no objection.

DISCUSSION: **Chairman Heider** said the unanimous consent vote was procedural and needed to be sent to the privileged committee to be printed. If printed, it will be sent back to the Senate Health and Welfare Committee as a consented bill for discussion and approval. **Senator Bock** asked if there had not been unanimous consent, would the Senate Health and Welfare Committee then taken a roll call vote? **Chairman Heider** said the committee would have debated the issue and, then, taken a roll call vote.

GUBERNATORIAL APPOINTMENT: **Chairman Heider** asked for the consideration of the gubernatorial appointment of Carol Mascarenas to the Board of Environmental Quality.

MOTION: **Senator Schmidt** moved to send the gubernatorial appointment of Carol Mascarenas to the Board of Environmental Quality to the floor with recommendation that she be confirmed by the Senate. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman Heider** asked for the consideration of the gubernatorial appointment of Beth Elroy to the Board of Environmental Quality.

MOTION: **Senator Hagedorn** moved to send the gubernatorial appointment of Beth Elroy to the Board of Environmental Quality to the floor with recommendation that she be confirmed by the Senate. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

Chairman Heider said the committee had already approved the gubernatorial appointment of Jay F. Kunze to the Hazardous Waste Facility Siting License Application Review Panel to be sent to the Senate floor.

Chairman Heider asked for volunteers to carry the gubernatorial appointments to the floor. **Senator Guthrie** volunteered to carry Mr. Kunze's appointment; **Senator Hagedorn** volunteered to carry Ms. Elroy's appointment; and **Senator Bock** volunteered to carry Ms. Mascarenas's appointment.

S 1072

Chairman Heider said Alex McDonald, public relations director for Intermountain Donor Services, would be presenting **S 1072** to the committee.

Mr. McDonald said **S 1072** would allow people to voluntarily donate two dollars when they first get or renew their driver's licenses and vehicle registration. That money would go for education and outreach about organ, eye and tissue donation and so that people who say yes to donation will know what they are saying yes to.

Vice Chairman Nuxoll asked if it was true that families of organ donors do not get compensated. **Mr. McDonald** said that was correct. **Vice Chairman Nuxoll** asked Mr. McDonald to explain, again, what the \$2 donation is used for. **Mr. McDonald** said the money is used to educate people about what Yes Idaho Donor Registry is all about and to educate people on what they are saying yes to when they agree to organ, tissue and eye donation. Also, to educate donors on how – should decide they want to limit their donation or maybe rescind it – they can do that online. A lot of the money would go toward making brochures that are printed, maintenance of the registry, etc. **Vice Chairman Nuxoll** asked Mr. McDonald for his opinion on paying donors or their families for organ donations. **Mr. McDonald** said, by federal statute, it is illegal to pay donor families. But, there has been some work toward the possibility of paying for funerals, offering tax incentives or tax breaks to families whose loved one was an organ, eye and tissue donor. **Mr. McDonald** said his organization support all of those things, but are opposed to cash payments because it would get very complicated with the possibility of people potentially lying about their or their loved ones' medical history in order to get paid. **Mr. McDonald** said it could also be considered coercive and donation organizations need to be very sensitive to those kind of ethical and moral issues.

Senator Guthrie asked why the donation amount was not more open-ended for those who wished to donate more than \$2. **Mr. McDonald** said people can actually donate more than \$2 if they wish.

Senator Schmidt asked what the current funding for the Yes Idaho Donor Registry is and what is Idaho's current percentage or ranking of people who agree to be donors. **Mr. McDonald** said the federal government divided up the country into 58 regions, with Idaho being blessed with three organ recovery agencies: Intermountain Donor Services serves the southern part; Pacific Northwest Transplant Bank out of Portland serves the middle; and the panhandle is served by LifeCenter Northwest out of Seattle. There are also two eye banks that serve northern and southern Idaho and three tissue agencies that serve Idaho as well – one in the panhandle, one in central Idaho and the other in southern Idaho. **Mr. McDonald** said each of the seven agencies currently working in Idaho pitch in for the maintenance for the Yes Idaho Donor Registry, public education brochures, etc. Currently, the funding is about \$45,000 per year. **Mr. McDonald** said Idaho has about 62 percent of its licensed drivers signed up for organ donation. Last year, Idaho was awarded a gold medal nationally for the performance of the registry. **Senator Schmidt** asked who administers the Yes Idaho Donor Registry at this time and how the \$2 donations would be accounted for. **Mr. McDonald** said Intermountain Donor Services currently manages the

Yes Idaho Donor Registry, while working with a database manager who provides all the security, etc. for the data. **Mr. McDonald** said the monies from the donations would go through Idaho's Health Department and invoices would be submitted for the extra public education being planned.

Senator Guthrie said there were inconsistencies in the donation wording, either stating "a contribution of \$2" or "\$2 or more." **Mr. McDonald** said the bill was written in order to leave it open for people who want to make more than a \$2 donation. However, administratively, it might be easier to keep the donation amount at \$2 and there would be no issue to just keep it at the \$2 amount. **Mr. McDonald** said his organization will take a look at and fix the inconsistencies.

Senator Hagedorn asked if Yes Idaho Donor Registry is a private sector registry populated with information from the Idaho Transportation Department (ITD) and if the registry knows who the donors are. **Mr. McDonald** said that was correct.

Senator Hagedorn asked if there is a restriction right now for the private sector to solicit funds. **Mr. McDonald** said all the agencies serving Idaho are non-profit and will hold fundraisers, etc.

Senator Schmidt asked if the wording in the bill about monies "could" apply for education means that those monies could be used in other ways. **Mr. McDonald** said the intent is to use the money is strictly for public education and maintenance of the Yes Idaho Donor Registry. Since there will be itemized bills on what the money is being requested for, there will be a checks and balances system to keep track of the money.

Senator Lakey asked which organization would apply for the funds and how each organization manages where donated organs go. **Mr. McDonald** said his organization is strictly organ recovery. When there is a death or pending death a hospital, by law, alerts the organization. At that point, the organization submits information into a computer – such as 30-year-old male, six feet tall, 200 pounds, blood type A – to find out where the next sickest person is waiting for a transplant. That national list is compiled by the United Network of Organ Sharing (UNOS) and is something organ donation organizations must follow. Once the organs are recovered, they are delivered to transplant centers.

Vice Chairman Nuxoll asked how the prices are set for organs that are picked up. **Mr. McDonald** said the way his organization is reimbursed is by adding all of the costs together at the end of the year – salaries, operating room fees, surgeons' fees, etc. – and that number is divided, according to a federal formula, by the number of organs recovered. Different organs are weighted at a certain amount so next year, based on estimates, the organization will know what to charge to recover the organs. At this time, it costs about \$42,000 to recover a heart and take it to a transplant center. **Mr. McDonald** said there are about five or six different state and federal entities, including processors, that audit the organ recovery agencies. **Vice Chairman Nuxoll** said since there is such a shortage of organs and competition to receive donated organs, how is it decided to which organization does a certain hospital's organ go to? **Mr. McDonald** said there is really no competition in the sense that certain organ recovery agencies serve very specific geographic areas. And, again, the UNOS list alerts the organ recovery agencies as to which transplant center to take the organs to.

Senator Hagedorn asked how much the expected cost of the outreach and education would be? **Mr. McDonald** said he guesses it will cost about \$45,000 to \$60,000 a year after a couple of initial years of set-up, which has been the experience in Utah. **Senator Hagedorn** said, in calculating the numbers from 2012, there were about 166,000 drivers licenses issued with organ donor checkmarks on them. If 50 percent of those 166,000 people donated \$2, that would generate about \$80,000 or more. And, factoring in the probability that an organ donor would throw in an extra couple of dollars, that could mean upwards of \$300,000 per year coming in. **Senator Hagedorn** said that was a lot of money for education and outreach and asked Mr. McDonald if he had run those numbers. **Mr. McDonald** said Utah averages about \$65,000 per year with a sign-up rate at about 70 percent, which is a little higher than Idaho. That average is over the last eight years and is the closest comparison with calculations that are pretty similar.

Senator Schmidt asked if the donor funds would be available to all organ, tissue and eye donor recovery agencies and, since the donation program has been in effect in Utah, had Mr. McDonald seen an increase in enrollment in the donor checkbox. **Mr. McDonald** said, yes, all of Idaho's donor recovery agencies would have a say in how the money is spent and, yes, there has been a steady increase of about a two to four percent a year in people agreeing to donor enrollment.

Chairman Heider asked if anyone would like to testify on **S 1072**.

MOTION:

Senator Bock said he appreciated Senator Guthrie's eagle eye and that it would be nice if the wording of "or more" on the donation amount was consistent in the bill. **Senator Bock** moved that **S 1072** be referred to the 14th order for amendment. **Vice Chairman Nuxoll** seconded the motion.

SUBSTITUTE MOTION:

Senator Hagedorn said he was uncomfortable with the numbers he calculated in regard of how much money could be generated with the \$2 donations. **Senator Hagedorn** said he would like to see more information on Utah's numbers, such as how much money has been donated, how many of the driver's license holders are donors, how much this particular account in Utah holds, what is the turnover, etc. **Senator Hagedorn** moved that **S1072** be returned to the sponsor. **Senator Guthrie** seconded the motion.

DISCUSSION:

Senator Bock said his impression of the donation is that it is not as if it would be collected per head, per year. **Senator Bock** gave an example of a relative who has an eight-year license. **Senator Hagedorn** said in 2012, there were 166,000 drivers licenses issued with a donor box. So in that particular case, if all 166,000 donated \$2, there would be over \$300,000 in that account. **Senator Hagedorn** said that is what he is concerned about and would feel better about the bill if there was something to use for comparing numbers. **Senator Bock** said the donation is voluntary and that the numbers coming in are not going to be equal to \$2 times 166,000.

ROLL CALL VOTE:

Chairman Heider called for a roll call vote on the substitute motion. **Vice Chairman Nuxoll, Senator Hagedorn, Senator Guthrie** and **Senator Schmidt** voted aye. **Chairman Heider, Senator Lodge, Senator Kenyon, Senator Lakey** and **Senator Bock** voted nay. The substitute motion failed.

ROLL CALL VOTE:

Chairman Heider called for a roll call vote on the original motion that **S 1072** be referred to the 14th Order for amendment. **Chairman Heider, Vice Chairman Nuxoll, Senator Lodge, Senator Kenyon, Senator Lakey, Senator Bock** and **Senator Schmidt** voted aye. **Senator Hagedorn** and **Senator Guthrie** voted nay. The motion carried.

S 1071

Chairman Heider said **S 1071** would be sent back for revision. The bill indicates that law enforcement officers, firefighters and emergency service personnel would notify Intermountain Donor Services of victims at a scene of an emergency. **Chairman Heider** said the person who brought the bill before the committee decided to correct the wording to state that rather than first responders making notifications, their dispatch centers would. **Chairman Heider** said once the corrections are made, **S 1071** will be back before the Senate Health and Welfare Committee.

H 17

Chairman Heider introduced Mark Johnston, Executive Director of the Board of Pharmacy.

Mr. Johnston said the Board of Pharmacy hopes to accomplish two things with **H 17** that deal with expansion – the practice of pharmacy into Idaho and the registration of nonresident pharmacists practicing in Idaho – and the regulation nonresident drug outlets and pharmacists that practice pharmacy into Idaho. (See Attachment 11a.)

Vice Chairman Nuxoll asked what this bill eliminates. **Mr. Johnston** said the bill actually expands the number of mail-service pharmacies that would be able to practice in a pharmacy in Idaho. **Vice Chairman Nuxoll** asked if that includes out-of-state pharmacies. **Mr. Johnston** said that was correct. For example, Walgreens currently has an operating center in Florida and Arizona. When you go to a Walgreens pharmacy and hand your prescription over, it will be scanned in. At that time, a technician in Arizona who is overseen by a pharmacist will do the data entry so it shows up electronically for the pharmacist. That is not a practice currently allowed into Idaho. This proposal would open up that practice into Idaho. **Vice Chairman Nuxoll** said about a year ago, there were a lot of rural pharmacies complaining about mail-order pharmacies and that it possibly had something to do with price and availability. **Vice Chairman Nuxoll** said she did not think that was fair and asked if those questions were answered in this bill. **Mr. Johnston** said the board has no statutory authority to deal in pricing whatsoever and **H 17** does not touch on that at all.

Senator Bock asked how the liability chain works and how would Idaho hold out-of-state pharmacies responsible if they make a mistake. **Mr. Johnston** said independent therapy tele-pharmacy across state lines is a very structured process and has many different elements that have to be followed. One of them is an audit trail documentation that accounts for any number of different people involved in the process. Right now, that is not required in mail service pharmacies. **Mr. Johnston** said there are over 500 mail service pharmacies registered to ship into Idaho and they do not have to follow that process. An upcoming set of statutes follows up on this set of rules and will impose that duty upon them. **Senator Bock** asked if an out-of-state pharmacy has to consent to Idaho jurisdiction before it fills a prescription. **Mr. Johnston** said there is no current requirement of that, so all 500 mail service pharmacies that ship into Idaho are not required to have a contractual obligation with the people, namely the insurance companies that they contract with, to ship into Idaho. In the rules that follow this set of statutes, that contractual obligation will be required. **Senator Bock** asked if a hospital dispenses a prescription from an out-of-state pharmacy to somebody and that person dies as a result of something that went wrong, is Idaho not able to sue that out-of-state pharmacy? Also, how can Idaho make out-of-state pharmacies accountable? **Mr. Johnston** said Senator Bock is absolutely correct and that Idaho currently has no means to address, in that manner, the 500 mail service pharmacies shipping into Idaho. However, the Board of Pharmacy put a number of different elements into the bill that will now allow it to do that. **Senator Bock** asked if the requirement of out-of-state

pharmacists to register in Idaho would make them subject to Idaho jurisdiction. **Mr. Johnston** said this would expand that registration out to any pharmacy, not just an institutional pharmacy.

Senator Schmidt asked about the accountability issue with out-of-state pharmacies and pharmacists, and what the board can pursue in regard to action against the pharmacies and pharmacists. **Mr. Johnston** said mail service pharmacies were originally able to pass the Out-of-State Mail Service Pharmacy Act by convincing the board in legislature that the home board pharmacy would take precedence – if something happens in your state, notify the home board and they will take care of it. For the most part, they do, but there have been exceptions where that was not the case. **Mr. Johnston** said different states have different funding for their board of pharmacies and some are very responsive, like Colorado and Iowa. Some are not so responsive, like Washington and Utah. For the most part, Idaho's board had hoped to still rely on that system, have the home state board deal with it and then mirror what they come up with. However, the board did put in the provision that if it has to go to investigate or inspect, it could recoup those costs.

MOTION:

Senator Schmidt moved to send **H 17** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Chairman Heider asked Emma Fredericksen to come forward and thanked her for the time she served as the Senate Health and Welfare Committee page during the first six weeks of the 2013 State Senate Session and told her she had done a wonderful job. Ms. Fredericksen was presented with a signed letter from the Idaho State Senate and a gift from the Senate Health and Welfare Committee.

Chairman Heider recognized Nerissa Schmechel, the new Senate Health and Welfare page for the final six weeks of the 2013 Senate Session.

ADJOURNED:

There being no further business before the committee, **Chairman Heider** adjourned the meeting at 4:16 p.m.

Senator Heider
Chairman

Linda Hamlet
Secretary