

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

- DATE:** Tuesday, February 19, 2013
- TIME:** 1:30 P.M.
- PLACE:** Room WW54
- MEMBERS PRESENT:** Chairman Tippetts, Vice Chairman Patrick, Senators Cameron, Guthrie, Martin, Lakey, Schmidt and Durst
- ABSENT/ EXCUSED:** Senator Goedde
- 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 Tippetts** called the meeting to order at 1:30 p.m.
- MOTION:** **Senator Durst** moved to approve the minutes of February 5, 2013. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
- MOTION:** **Vice Chairman Patrick** moved to approve the minutes of February 7, 2013. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.
- S 1014** Relating to Removal of the Requirement that a Specific Percentage of Funds Be Allocated to Specific Programs and Providing a Sunset Date, was presented by **Paul Leary**, Administrator, Division of Medicaid, Department of Health and Welfare. He said the purpose was to modify the current code to allow available funding to be used to cover program expenditures. This change was included in the Governor's budget recommendation for Medicaid.
- He said three Department of Health and Welfare (DHW) programs, Children's Health Insurance Program (CHIP) Plan B, Children's Access Card and the Small Business Health Insurance Pilot Program, were funded through use of dedicated funds from the Premium Tax Fund. Current statute directs a specific percentage of the funds to each of the three programs. For state fiscal year 2013, this allocation formula would leave the children's program underfunded, while excess funds for the adult program would remain idle. By modifying Title 41, Insurance, Chapter 4, fees and taxes would eliminate the need to revisit the allocation formula each year and would allow the DHW to fully fund each program. He said there was a sunset clause of October 1, 2015, included in the bill. The reason for the sunset clause was the Adult Premium Assistance Program which would be transitioned to the federal subsidy program on January 1, 2014, which is a part of the Affordable Care Act (ACA). Additionally, he said, through a section of the ACA, federal funding of the CHIP, would increase by 23 percentage points, up to 100 percent on October 1, 2015. He indicated that at that point in time, Idaho's CHIP program would be 100 percent federally funded and the premium tax fund would no longer be necessary to fund this program.
- There would be no impact on the General Fund. There would be no change to the total amount of premium tax fund used for these three DHW programs, as premium tax funds available to be used for these programs was defined in statute.
- Vice Chairman Patrick** and **Mr. Leary** discussed the programs and the allocation of surplus monies.

MOTION: **Senator Schmidt** moved that **S 1014** be sent to the floor with a **do pass** recommendation. **Vice Chairman Patrick** seconded the motion. The motion carried by **voice vote** with **Senator Cameron** voting nay. Senator Martin will carry the bill on the floor of the Senate.

S 1100 **Senator Nuxoll** introduced this bill, relating to Health Care Sharing Ministries. She said the health care sharing industries pay medical bills for those in need. There were 800 households in Idaho, involving 2,500 individuals who participated. The participants would be exempt from buying state insurance. Twenty-two other states have already exempted these types of ministries. She said a health care sharing ministry should not be considered to be engaged in the business of insurance for the purposes of the State Insurance Code. She introduced Joe Guarino, Executive Director of the Alliance of Health Care Sharing Ministries.

Mr. Guarino explained that Health Care Sharing Ministries were charitable organizations that catered to people of similar faith, who have chosen to help one another pay their medical bills. Participants in health care sharing organizations financially assisted other participants with large medical expenses. Over the last 30 years, the three national ministries that have health care sharing, have helped pay more than \$1.75 billion in medical bills. Their stellar performance was enough for Congress to recognize them as legitimate and exempted the participants in Health Care Sharing Ministries from the individual responsibility requirement in the ACA. **Mr. Guarino** said due to their voluntary and ministerial nature, the organizations should be recognized in the insurance code as health care sharing organizations and not as health insurance companies.

He said they were there to request an exemption for these organizations from Idaho's insurance regulations. Idaho would be joining 22 other states who have already exempted health sharing organizations, including Washington in 2011, South Dakota in 2012, and Utah several years ago. Simply, he said, this bill does two things: (1) it defines what a health care sharing ministry is in Idaho's code; and (2) it exempts these organizations from the insurance code, since they are not insurance companies.

Mr. Guarino said cost-sharing was accomplished through participants' monthly gifts directed to families in financial distress and not to an insurance reserve fund. In addition to addressing the financial needs of those facing health challenges, the health care sharing organizations also seek to help meet spiritual and emotional needs as a part of the sense of community which exists among participants. Nationally, health care sharing organizations serve more than 170,000 individuals in all 50 states. In Idaho, approximately 2,500 individuals participate. He mentioned this bill was before the committee because overzealous insurance regulators occasionally attempt to subject health care sharing organizations to the same requirements as insurance companies. It is impossible to meet such standards without destroying the voluntary, ministerial nature of these organizations. Fighting the regulators in court has been extremely expensive and strains the finances of the health care sharing organizations' participants, who are already a financially stressed segment of the population. The uncertainty created by such litigation could also harm the functioning of the organizations. In terms of consumer protection, health care sharing organizations are under the oversight and general regulation of both the Internal Revenue Service and the Attorney General offices, since they are 501(c)(3) charities. He commented the ministries should not be subject to the additional requirements of the state insurance code, which should specifically recognize health care sharing organizations as charitable organizations and not as insurance providers. Health care sharing organizations have a desire that the state insurance code explicitly recognize that health care sharing organizations are not identified as insurance companies who are seeking an exemption from

the insurance code. **Mr. Guarino** reiterated that since health care sharing organizations engaged in voluntary sharing and not a contractual transfer of risk, they were not an insurance company. The public good would be served by explicitly acknowledging this through a specific exemption in the state's insurance code to avoid uncertainty and unnecessary waste of legal expenses.

Mr. Guarino said the ministry never sees the money and they are only a facilitator. The reason the ministries didn't consider themselves an insurance company was because a transfer of risk to a third party would be required to qualify. Insurance companies are required to keep funds in reserve, but all money comes from the pool of participants.

Senator Guthrie and **Mr. Guarino** discussed the idea of someone abusing the system and using the money to pay for groceries instead of paying for their medical bills. They talked about medical bills that were extremely high, such as for a heart transplant. The ministry would negotiate the amount with the provider **Mr. Guarino** said. **Senator Lakey** discussed with **Mr. Guarino** the requirement of being of "similar faith" and the idea that the applicant was "Christian".

A discussion ensued between **Senator Cameron** and **Mr. Guarino** regarding claims, the voluntary payment of medical bills to providers, the signing of documents or contracts obligating payment, the reallocation of shares when all of the money was not raised to pay a bill, and how the risk was handled if an individual received more money than the medical bill. They discussed the definition of a provider, such as doctors, nurses, hospitals and ambulance companies. The application form and the process were discussed. **Mr. Guarino** indicated the ministry decided what was shared and the requirement to help determine pre-existing conditions for an individual. Because they were a private organization, they were able to reject someone participating in the service and since the ministry was not an insurance company, they were exempt from the ACA requirement. **Mr. Guarino** cited examples of contract violations, which were not attending church services at least three times a month and the consumption of alcohol. Yearly renewal of the application, requiring the pastor's signature for the participant was discussed. Payment limits for the first and second tiers were included in the discussion, along with the \$175 administrative fee.

Senators Guthrie and **Schmidt** discussed with **Mr. Guarino** the misuse of funds, disqualification of a participant, the enrollment of those who have health insurance, but use the ministry pool to pay deductibles, the idea that most participants didn't have health insurance, and legislative oversight. **Chairman Tippetts** said **Mr. Guarino's** examples had been medical needs and medical expenses. **Chairman Tippetts** cited the legislation which clearly stated in line 21 of the bill, "relating to the ministry acting as a facilitator among participants who have financial or medical needs", and line 26, "which provides for the financial or medical needs of a participant through contributions from one participant to another". He asked **Mr. Guarino** to give him an example of the kinds of financial needs that may be covered by his organization. **Mr. Guarino** said that because the participants were sending checks, his organization was referring to financial needs. He said some people may think that when they said medical needs, they could be thinking about helping someone get to a clinic, for example. A person was not paying the bill, but was helping someone get to the clinic. In this case, medical financial language was inserted to cover everything that helped pay for a medical bill. He stated there were approximately 800 participating households in Idaho.

TESTIMONY: **Chairman Tippetts** advised those wishing to testify to be brief, but the committee wanted to give them the time they needed to make their point. He asked those who testified to state and spell their names and indicate who they represented.

Tom Munds from Caldwell, Idaho, stated he had been a member of the ministry for about one and a half years. He quoted John Adams and explained the quote meant Americans, as individuals, should be able to take personal responsibility for their own actions. He said the paradigm had shifted. The government had to give us authorization to do something we have already decided to do on our own. He said we were accountable to one another as Christians and as a part of exercising faith and solid beliefs in the bible. He indicated the ministry was designed in faith with some protective measures, but they had to rely on the fact the participants were Christians. People should be trusted to exercise their freedom as long as they were not hurting someone else. He said his personal choice was based on moral grounds. He said the Samaritan Ministries were part of a system that took care of themselves and the government did not have to take that responsibility. He talked about the separation of church and state and restoring their proper relationship. He pointed out the cost saving benefit of the ministries. As a self-payer, his health care bills have been reduced by 25 percent. He talked about how many fortunate Christians try to help by giving extra money for non-covered medical needs.

Senator Schmidt asked Mr. Munds if it was his perception of the current bill that he would not be required to purchase health insurance. **Mr. Munds** said it was his understanding that he was not required by the government to have to submit to mandates, so long as he took responsibility for his own actions.

David Barrett of Boise, said he was in favor of the bill. He said his family had been a part of Samaritan Ministries for the last 15 years. He stated he had seven children and had been able to pay off all of his medical bills in a timely way. He indicated his participation was deeply related to his Christian beliefs.

Chris Brown, an attorney, said he was testifying as a husband and father, and was a member of the Samaritan Ministry. He shared that his many medical bills had been 100 percent paid. He compared the cost of the ministry with the cost of a Blue Cross policy, which increased, with no claims in one year, from \$400 to \$900 a month. He said he looked for an alternative 13 years ago and found Samaritan Ministries. He said he contracted directly with the doctors and had control over his own medical care. The voluntary program works. He stated the ministry was amazing, good and positive in comparison to traditional medical insurance. Currently, he is paying \$300 a month to the ministry to participate.

A discussion ensued with **Senators Cameron, Lakey and Schmidt with Mr. Brown** about the limitations of seven years for cancer treatments, diabetes or heart conditions that were not covered, the voluntary nature of the ministries, unsuccessful challenges by attorneys declaring the ministries to be insurance companies, and the lower monthly outlay for participants in the ministries.

Elyse Baumbach said she grew up in a family that used the Samaritan Ministries and was currently a member as an adult. She said she liked the ministry because she was in charge of her health care needs and she was a part of a Christian organization. Participants helped and prayed for one another. She valued the fact that she felt she helped a person when she received a monthly bill for that person's medical needs.

Katherine Frazier said she was not a subscriber, but wanted to be ready when the time came when she became ill. She liked the idea that the medical bill was between herself and her provider. She thought this was a remarkable program and a good way to pay medical bills and of keeping expenses down.

Lucas Baumbach testified he and his wife were members. He stated his wife was employed by the ministry, and he asked for support of the bill from the committee. He said the membership had grown and the concept was catching on. **Senator Cameron** asked Mr. Baumbach to clarify the fact that his wife worked for the ministry and asked if her position paid. **Mr. Baumbach** said she worked for Samaritan Ministries as an administrative assistant.

Michael Oswald, representing himself and his wife, Malia, said they were members for the same reasons as those who previously testified. He said he had the same kind of angst as others, and it took a while to become accustomed to the ministry concept, but when they made the decision to participate, they were at peace.

MOTION:

Senator Durst moved that **S 1100** be sent to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion.

Senator Cameron stated he had a possible conflict of interest pursuant to Senate Rule 39, since he was an insurance agent. **Senator Durst** said, speaking from an evangelical standpoint, participants were living in accordance with accountability. He said it was critical to recognize the power of prayer within a ministry as a body of believers, who were praying to prevent medical needs. He said he supported this legislation. **Senator Cameron** said he found the concept refreshing and satisfying when others banded together to help one another. He said he would prefer if there was additional language that would prevent someone from holding themselves out as an insurance plan and accepting risk on behalf of another.

Senator Nuxoll said that in answer to Senator Cameron's concerns, section 2 (f) provided written monthly statements to all participants that listed the total dollar amount of qualified needs submitted to the health care sharing ministry, as well as the amount actually published or assigned to participants for their contribution. She said that 39 departments of insurance had filed cases against health care sharing ministries and 39 had lost. Eight states came up with the same bill and passed it. In Obamacare, section 1501 (b) showed the ministries were exempted. Yearly audits are conducted with Samaritan.

Senator Cameron asked Senator Nuxoll if she would be opposed to friendly amendments or additional language that strengthened the fact that the health care ministries were not insurance. **Senator Nuxoll** said she thought the bill was fine the way it was written. **Senator Guthrie** and **Mr. Guarino** had a conversation regarding the administration fee of \$175 a year and the transparency of amounts held out in reserves from the administrative pool. **Senator Guthrie** asked Mr. Guarino if the amount in the account was disclosed during the audit. **Mr. Guarino** said they did keep some money in reserve, not like an insurance company, but like any prudent company for major expenses, such as replacing a roof. **Senator Guthrie** said that if someone who was already in the ministry could not pay for treatment and the claim was not paid in a timely manner and a third party application was made, would the ministry consider itself a financial resource to retire that debt? **Mr. Guarino** said the ministry could not be identified as a financial resource because the money was with the participants.

Senator Schmidt and **Mr. Guarino** discussed other ministries that have not been financially sustaining, but which have disbanded and joined the Samaritan ministries. **Senator Lakey** said he supported the bill. The ministries were not insurance and he appreciated the voluntary concept with no obligation to pay. **Senator Martin** said the ministry was truly a Christian act of faith and was appropriate for this organization. He said he agreed there was oversight and this was not insurance.

Attachment 1 was transmitted as written testimony by an individual who did not testify during the meeting (see attachment 1).

VOTE: The motion carried by **voice vote**. Senator Nuxoll will carry the bill on the floor of the senate.

ADJOURNED: There being no further business, **Chairman Tippetts** adjourned the meeting at 2:56 p.m.

Senator Tippetts
Chairman

Linda Kambeitz
Secretary