

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, February 27, 2014

**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:** None

**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** called the meeting to order at 3:16 p.m.

**S 1260** **Relating to Hazardous Waste Management: Amends Existing Law to Revise the Definition of "Restricted Hazardous Waste": Roy Eiguren**, Eiguren Fisher Public Policy Firm, representing US Ecology Corporation (Corporation), said that due to time constraints, the presentation would be shortened. He had brought two representatives from the Corporation to speak to the Committee and then would address any questions.

**TESTIMONY:** **Terry Geis**, Vice President and General Manager, began the presentation by giving an overview of the Corporation, what they do, and how it relates to the legislation.

**Joe Weismann**, Vice President for Radiological Programs, then proceeded to explain **S 1260**, which will adjust the Hazardous Waste Management Act to include the words "released from radiological control" to the list of exceptions to restricted hazardous waste. This will allow the Corporation to fix an unintended consequence of how the legislation was originally written back in 2001, and has been amended several times since then. The clarification will enable the Corporation to take low activity unregulated radioactive waste from all federal government agencies that would like to have access to their Corporation for disposal. The way the law and the Corporation's permit is written, is that it's been specially written to comply with the way the US Nuclear Regulatory Commission (NRC) does business. This is specifically under the context of the how the NRC licenses and exempts waste, and that is how the Idaho Department of Environmental Quality (IDEQ) regulates their corporation, and how other things are determined and allowed.

The hope is that **S 1260** will allow the corporation to make small clarifications to how the application of waste not regulated under the Atomic Energy Act will apply to the Corporation. This legislation will not expand the Corporation's capabilities and their waste acceptance criteria will remain the same as well as other procedures in place. The only change will be that the Corporation can take materials that are equivalent (from a characteristic perspective), but carry a different tag on it from a different site, from what they're already taking. It will also help to improve the clarity in the regulations that have taken place through the years. It's also going to bring about an increase in competition in the marketplace, which if they are successful, will mean extra contributions to the Idaho General Fund.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 1).

**Mr. Eiguren** wanted to add that they had consulted with the IDEQ on the legislation, and received assistance in drafting the legislation from them. They had also conferred with the Governor's office, who had no objections to it, and had met with other groups around the State for input and support. There has been no negative reactions to the legislation.

**DISCUSSION:** **Senator Lakey** wanted to clarify that the purpose of the bill is to take the same type of unregulated waste that they are taking from one federal regulatory agency and now start taking from other agencies as well. **Mr. Eiguren** responded that was correct.

**Senator Bock** asked to confirm if there had been any opposition to the proposed legislation. **Mr. Eiguren** answered that there was none. There had been an out-of-state company that had initially voiced some concern, but they have been met with and there are now no objections.

**Senator Guthrie** was curious about the \$5 a ton tipping fee and wanted to know why there has been no consideration for a higher fee since there is more risk and liability due to exposure. **Mr. Geis** stated that the fee is a little complicated, but is established as a tax structure based on the size of a project and the type of waste, and can vary from \$2 to \$30 a ton. **Senator Guthrie** needed clarification on the slide in the presentation regarding the on-site measurement of 10 versus the U.S. average natural background of over 300, and he wanted to know what exactly that meant and how it was figured. **Mr. Weismann** said that the 100 millirem is above background. The NRC regulates nuclear facilities so that they may operate with their effluence, and what they release to the public, to a limit of 100 millirems above natural background. Natural background will differ and depend on where you live (mountains, coast, etc.), so the NRC allows measurements of the 100 millirems above natural background to take those factors into consideration.

**Chairman Heider** wanted a definition of what "unregulated waste" is. **Mr. Weismann** responded that the nature of low-level radioactive waste in the U.S., in the way the Congress passed to regulate it, is based on the genesis of the material. If the material is licensed by the NRC, it is by definition low-level radioactive waste if it is below a certain threshold. In order for his Corporation to receive low-level radioactive waste, it cannot be regulated or licensed, so it has to undergo a release or an exemption from licensure.

**MOTION:** **Senator Martin** moved to send **S 1260** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. Senator Lakey will carry **S 1260** to the floor.

**S 1362** **Relating to the Personnel System: Ross Edmunds**, Administrator for the Division of Behavioral Health, Department of Health and Welfare (Department), started off by thanking the Committee for the first attempt at a prior bill (**S 1223**), and also apologized that the bill wasn't strong enough to carry its own weight in passing. He felt that **S 1362** will clarify all of the concerns he had heard on the previous legislation from the Committee and others in the Senate.

**Mr. Edmunds** wanted to give an update on a few things that had changed when **S 1223** had been rejected and sent back. He had previously reported to the Committee that the income received by the physicians at the state hospitals, to pay off their student loans, would be taxable income. What has been learned since then, by going back to the Tax Commission and pointing out a particular piece of federal tax code to them, is that it has now been determined that this money will be considered a part of the person's gross income and is not taxable income. This will make a big difference for the providers who will benefit from this program. The legislation has gone through some re-wording, including some assurances that the provider who is receiving the loan repayment benefit has to provide to the hospital

every year, proof that the money is going toward their loan repayment and nothing else.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see attachment 2).

**Senator Martin** wanted to note that on page 2 of the legislation, it looked like the Department will be checking the payment after the fact and not keeping track as Mr. Edmunds had just noted. **Mr. Edmunds** responded that essentially that was correct, but they would be requesting receipt of the information to prove loan repayment as soon as possible. The problem of checking in advance is you would either have to send the payment directly to the lender (instead of giving it to the physician to send themselves), or you would have to do a two-party check that's provided to the institution and the provider.

**Senator Bock** noted one small wrinkle that he has noticed in all of this, and he gave an example of someone who had already been planning to make a \$10,000 loan payment anyway. So, the provider makes the payment and then the hospital distributes to them their annual benefit of \$10,000. So, in a sense, the money the hospital has given them has not gone to the loan repayment as it is intended to. **Mr. Edmunds** answered that there are a number of examples they could come up with that would point to a misuse of the funds and purpose of the program, but for the Department and their efforts, they are most interested in providing incentive to the provider to attract them to come and work at the state hospitals. The bottom line is that whatever payment amount they receive as an incentive will need to be shown as going towards the student loan, whether it was out of their own pocket at first or from the hospital program. No further distributions would be made until they have received evidence of loan repayment in that amount.

**Senator Guthrie** needed more clarification on the tax benefit that had been described earlier. His concern was if the provider is not using the actual incentive money for the loan repayment but has used their own funds, do they still get the tax benefit. **Mr. Edmunds** stated that as far as the taxes go, the provider would be breaking federal law if they were to claim that the money was used for the loan repayment when it actually wasn't. The provider will receive a 1099 form at the end of the year showing the money they have received for the loan repayment program and will be held accountable for that money to be declared, even though it is not taxable. The main purpose of the legislation is to attract quality and qualified healthcare providers for the state hospitals that are sorely in constant need.

**Senator Hagedorn** can understand what the Department is trying to do with this legislation and that the private sector also competes to attract these physicians with fewer restrictions given on any bonuses or incentives offered. With that said, he wanted to know how more restrictions on this legislation will impact the state hospital's ability to attract solid candidates for long-term employment. **Mr. Edmunds** said that more flexibility built into the bill instead of more restrictions will prove to be more attractive to those providers they are trying to recruit. He understands the concern by the Committee members and others that the money will be used for the intended purpose (paying off the student loans), and he confirmed that the physicians will be required to provide proof that they are using the money as agreed upon. He pointed out that this issue has already come up as a reason for psychiatrists not taking the job at the state hospitals due to no such incentive being in place.

**Senator Schmidt** pointed to page 2 of the legislation where it addresses the State Hospital Governing Board and asked if perhaps the physician being recruited could end up eventually being the hospital Chief of Staff and sitting on that board. **Mr. Edmunds** responded that if the proposed governing body were to include the physician at State Hospital North then yes, that would be a possibility, but not for State Hospital South since there are enough staff currently that the duties are spread out between them. He said that this is a situation they would need to watch so there is not a conflict of interest in the future.

**Senator Bock** mentioned that he was looking at the tax form 1040, and wanted to make sure they have accurate information. He wanted to confirm that Mr. Edmunds is saying this incentive is not earned income which would then be subject to all of the various taxes (Social Security, FICA, etc...), but would be included on other parts of the 1040 form as perhaps "other income". Before the bill goes to the Senate floor, he felt that this needs to be clarified so they are not misrepresenting anything when it is presented on the floor. **Mr. Edmunds** answered by reading the information gathered from the Deputy Attorney General's office, stating that since the payments are not taxable under federal law, they would also be considered non-taxable for state income purposes. **Senator Bock** declared that he understood the point more fully and had been confused by the fact that the money was being included as part of the gross income when it is not being taxed, so it really shouldn't be included as part of the gross income.

**Senator Guthrie** referenced page 2 of the legislation that speaks about the eligibility for the benefit at the end of one year, and he wanted to know even if they had only worked 200 hours in that calendar year, would they still benefit from the program. **Mr. Edmunds** specified that the requirement would be either one full year or 2080 hours to receive the benefit. He noted that some attain the 2080 hours before the year is up, and others take a little longer since they are more part-time. **Senator Guthrie** wanted a more definite answer to his question. If a person works 200, 400, 600 hours and the year goes by, are they eligible for the benefit? **Mr. Edmunds** stated that yes, they would be able to receive the benefit.

**Senator Bock** said that he was looking at the Internal Revenue Code Mr. Edmunds had referenced from the Deputy Attorney General's office and confirmed that the bonus would not be included as part of the gross income and would be exempt from taxes.

**Senator Hagedorn** reiterated that the state hospitals need to find better ways to compete with the private sector in getting good physicians, and currently that can't be done with the payment and funding situation as it is. He thought there may be too many restrictions attached to the benefit as it is and they would need to be careful so they don't restrict themselves right out of good candidates. But he would also make sure that whoever is getting the bonus is going to work hard for it, and not just 200 hours, but the full 2080.

**Vice Chairman Nuxoll** wanted to confirm that someone could be getting a large bonus for only working 200 hours. **Mr. Edmunds** confirmed that they would qualify for the program, but not for the maximum amount, it would be pro-rated based on the hours worked and the agreement determined when the candidate signed up for employment, especially since some will be designated as only part-time employees but will receive some benefit.

**MOTION:**

**Senator Hagedorn** moved to send **S 1362** to the floor with a **do pass** recommendation. **Senator Martin** seconded the motion. The motion carried by **voice vote**. Senator Hagedorn will carry **S 1362** to the floor.

**HCR 42**                    **A Concurrent Resolution: Stating Findings of the Legislature and Rejecting a Certain Rule Docket of the Board of Pharmacy Relating to Rules of the Idaho State Board of Pharmacy: Representative Fred Wood**, reminded the Committee that both the House and Senate had rejected the rule from the Board of Pharmacy (at their request). This HCR is to show that the House has rejected the rule as agreed upon. He is before the Committee to ask them to concur and also reject the rule as requested by the Pharmacy Board.

**MOTION:**                **Senator Martin** moved to send **HCR 42** to the floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:**    **Senator Martin** moved to approve the January 23, 2014 Minutes as written. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:**    **Senator Hagedorn** moved to approve the January 24, 2014 Minutes as written. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:**    **Senator Hagedorn** moved to approve the January 30, 2014 Minutes as written. **Senator Lakey** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:**    **Senator Bock** moved to approve the February 10, 2014 Minutes as written. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:**    **Senator Martin** moved to approve the February 11, 2014 Minutes as written. **Vice Chairman Nuxoll** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:**            There being no further business before the Committee, **Chairman Heider** adjourned the meeting at 4:05 p.m.

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Senator Heider  
Chair

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Linda Hamlet  
Secretary

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Linda Harrison  
Assistant Secretary