

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Tuesday, February 24, 2015

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Martin, Senators Lodge, Hagedorn, Tippets, Lee, Schmidt and Jordan

ABSENT/ EXCUSED: Senator Nuxoll

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** welcomed everyone in attendance and convened the meeting at 3:00 p.m.

MINUTES APPROVAL: **Senator Schmidt** moved to approve the Minutes of January 26, 2015. **Vice Chairman Martin** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Tippets** moved to approve the Minutes of January 28, 2015. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Lee** moved to approve the Minutes of January 29, 2015. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: The reappointment of John McCreedy of Boise, Idaho, as a member of the Board of Environmental Quality (Board), to serve a term commencing July 1, 2014 and expiring on July 1, 2018.

Mr. McCreedy stated that he had been a member of the Board for the last three years and was familiar with most federal and state environmental laws and the authorization process used by the DEQ. He felt that his greatest strengths were on the administrative law side, rule approval process, and review of DEQ decisions. He indicated he was familiar with the Board's agenda for the next few years and was looking forward to serving the State of Idaho.

Chairman Heider asked for questions from the Committee.

Senator Tippets asked when Mr. McCreedy was first appointed to the Board and how he felt about his past experience. **Mr. McCreedy** said he was originally appointed to the Board in either 2011 or 2012. He said that he had worked under two directors and found them both to be very prepared. Their staff had done an outstanding job. Environmental regulations are very complex, and this agency did a good job in handling relevant issues.

Senator Schmidt asked how many members of a particular political party had been appointed to the Board. **Mr. McCreedy** responded that he was part of the Independent Party. He recognized that doesn't fit under the definition of a political party, and he stated that he had consistently voted both sides of the ticket.

Senator Hagedorn asked why Mr. McCreedy was a member of the Washington State Bar as well as the Idaho State Bar. **Mr. McCreedy** said that he first applied to the Washington State Bar when he was representing Goodman Oil Company. Mr. McCreedy had been advised not to practice law in his current position.

MOTION: **Senator Tippets** moved to send the gubernatorial reappointment of John McCreedy as a member of the Board of Environmental Quality to the floor with the recommendation that he be confirmed by the Senate. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: The appointment of Curt Fransen of Garden City, Idaho, as Director of the Department of Environmental Quality (DEQ), to serve a term commencing January 5, 2015 and expiring on January 7, 2019.

Mr. Fransen said it was his priority to maintain and enhance the progress made by Director Hardesty during her tenure. He found the DEQ's structure, staff and policies to be very sound and didn't see any need to make any personnel or organizational changes. He saw three challenges that the DEQ faces. The first issue is the fish consumption survey and issues related to it. Data from the survey will be available in the spring after a two year process. The second issue is HB 406 permitting system for discharges to surface waters throughout the State. HB 406 directed the DEQ to submit application by September 2016. To meet that deadline, they need to complete rulemaking by this summer for presentation to the Board in the fall, and have review and approval by the Legislature in the 2016 Session. Funding a program of this size is a big challenge. The third concern is there are current and pending changes being made by the EPA to health based national ambient air quality standards. Standards are reviewed and updated every five years by the EPA. The State is required to develop, submit and implement an EPA approved plan to meet the standards and bring the problem areas back into compliance. Monitoring and planning efforts to address these issues are significant. If EPA rules regarding existing power plants are approved, it will require a major work load for DEQ to develop a state plan to bring down emissions 30 percent by the year 2030.

Chairman Heider asked for questions.

Senator Hagedorn asked what would happen if Idaho went into a position of nonattainment concerning the PM 2.5 standard and did not take the appropriate steps to correct it. **Mr. Fransen** stated that if the State didn't take care of it, the EPA would use whatever measures they used in other parts of the country.

MOTION: **Senator Lee** moved to send the gubernatorial appointment of Curt Fransen as Director of the Department of Environmental Quality to the floor with the recommendation that he be confirmed by the Senate. **Senator Schmidt** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: The reappointment of Kermit Kiebert, of Hope, Idaho, to the Board of Environmental Quality, to serve a term commencing July 1, 2014 and expiring on July 1, 2018.

Mr. Kiebert began his comments by stating that in 2006 Jim Risch asked him to help on the board of the DEQ. He indicated it has been a very good experience and a great staff to work with. One of his strengths is in the area of collaborative rulemaking and how effective it is making their organization.

Chairman Heider asked for questions.

Senator Schmidt asked Mr. Kiebert about his party affiliation. **Mr. Kiebert** indicated that he is a very fiscally conservative Democrat.

MOTION: **Vice Chairman Martin** moved to send the gubernatorial reappointment of Kermit Kiebert to the Board of Environmental Quality to the floor with the recommendation that he be confirmed by the Senate. **Senator Tippets** seconded the motion. The motion carried by **voice vote**.

S 1101

Relating to Indigent Sick: Senator Schmidt and Representative Trujillo worked together to present **S 1101**. **Senator Schmidt** turned the time to Representative Trujillo for presentation of this legislation. **Representative Trujillo** began her presentation with the definition of "medically indigent" as "any person who is in need of necessary medical services and who, if an adult, together with his or her spouse, or whose parents or guardian if a minor or dependent, does not have income and other resources available to him from whatever source sufficient to pay for necessary medical services." This is not related to poverty. It is based on ability to pay. High medical bills outweigh income. She continued by describing the legislative progression of the Catastrophic Cost Health Care Program. It is to be used as a last resort.

Representative Trujillo then discussed the transformation of the CAT Fund and indicated that in 1996 the definition of necessary medical services was added. A provision to allow for coverage of ongoing care, pending surgeries, chronic treatment and other non emergent services was included. She stated that it is the policy of the State that every citizen shall be encouraged to purchase his or her own medical insurance with coverage sufficient to prevent them from needing to request assistance and that the County Medical Indigent Program and the Catastrophic Health Care Cost Program are to be used as a last resort.

Representative Trujillo discussed the 2014 federal mandate requiring everyone to purchase insurance and the eligibility requirements for enrollment periods. Certain life changes, called qualifying life events, may allow an individual to enroll in coverage outside of open enrollment. A question was asked whether the State and local taxpayers should be responsible to pay for individuals' medical bills when they have the option of purchasing their own health insurance. Predictable impacts and savings to taxpayers were also presented (see attachment 1).

A very brief explanation of this legislation is anyone who is at 100 percent of the poverty level would automatically be covered. Anyone between the 100-138 percent of poverty level would be looked at on a case-by-case basis. Anyone above 138 percent would not be covered through the Catastrophic Fund.

Representative Trujillo asked that **S 1101** be sent to the floor with a **do pass** recommendation.

Senator Schmidt indicated that he wore two hats in his role on the Committee. One as a Legislator and the other as a member of the State CAT Board (Board). As a Legislator, he asked the Committee to send this bill to print. He stated that as a Board member, he could not support or oppose this bill. The Board is a state entity, and that is not their role. The Board feels that determining eligibility for catastrophic health care payment is what they do each month. Catastrophic coverage is not insurance, it is a payment plan. In order for people to qualify as indigent, they must be determined as such by the county commissioners. If the need is above \$11,000, they must apply to the state fund. In the last year and a half, the CAT Fund expenses have gone down because people are enrolling in insurance. The enactment of this legislation is March 1, 2016 which gives Idaho citizens time to enroll in insurance programs.

Senator Tippets had concerns about the language when the bill refers to being "unable" to purchase insurance and what exactly that means. Considerable discussion was held regarding this issue. **Senator Schmidt** responded that occurs when someone has a qualifying event and chooses not to purchase insurance at that time. He reiterated that indigency is determined at the time of the incident. Insurance coverage eligibility is determined under an enrollment period. If one applies for indigency and could have enrolled in insurance either in an enrollment period or a qualifying event and chose not to, then one would not be considered indigent. **Senator Tippets** asked about the circumstances regarding what it means to be "unable" to purchase insurance if a person did not have the funds to do it. He suggested that the meaning would be more clear if it said that a person chose not to purchase the insurance. **Senator Schmidt** said that the intent of the bill is that there had been a period of eligibility and now the person who passed through that period does not have insurance, even though they could have had it. **Vice Chairman Martin** asked who would pay for the event if the individual chose not to become insured during the event. **Senator Schmidt** responded that those costs would not be paid for by the county or the State. The person incurring the costs would be responsible for payment. **Vice Chairman Martin** asked who would end up paying if the responsible person did not. **Senator Schmidt** responded there would be a cost shift. This bill may marginally affect that situation.

Senator Lee said that the county commissioners in her district do not believe that they are the ones determining indigency, and appeals are filed to fight the original determination, causing more time, money and effort to be spent on this process. **Senator Schmidt** said that the county commissioners are required to make the call and there is inconsistency on how those determinations are made.

Senator Hagedorn asked how much CAT Fund costs had declined in the previous year and what that was attributed to. **Senator Schmidt** said they are seeing less claims but more expensive claims. **Senator Hagedorn** asked about the income levels of those filing claims. **Senator Schmidt** stated that about 2/3 were below 100 percent and about 1/3 above the 100 percent level. This legislation won't solve the whole problem, but it is a start.

Chairman Heider asked who determines who will pay for ER visits if it is an emergency situation. **Senator Schmidt** said care is never withheld based on ability to pay. The ability to pay is usually decided by the hospital based on when they are admitted. Hospitals are working with patients to get them to enroll in health care plans, and they prefer working with insured patients.

Chairman Heider asked for testimonies.

TESTIMONY:

Toni Lawson, testified on behalf of community hospitals, and voiced opposition to this legislation. She is concerned that it would negatively impact low income Idahoans who don't have insurance coverage, cause confusion around the indigent program and CAT Fund eligibility process and result in millions of dollars in cost shifts to physicians, hospitals and other health care providers (see attachment 2). **Ms. Lawson** asked that this Legislation be held until some of the issues she sees are resolved.

TESTIMONY:

Jim Baugh, representing Disability Rights Idaho, a private nonprofit which provides legal and advocacy services for people with disabilities, expressed concern about people with mental illnesses and the effect this legislation would have on them. They have a lot of expenses and need for treatment that is not typically covered by an insurance plan on the Exchange, and being included in the Exchange does not disqualify one from the indigent program. **Mr. Baugh** gave several examples of people having large copays, living within strict budget constraints and not being able to survive financially to illustrate that the Indigent Fund isn't always about large hospital bills. This bill would adversely affect these people. He feels that this bill is not going to encourage people to sign up for insurance. He cited many reasons for people not signing up for insurance; much of it is irrational reasoning, but education is going to be the only answer and that will not happen overnight. This law will only benefit them after they have had a catastrophic event while they were uninsured. He stated that he feels this legislation will only increase confusion in eligibility and result in more litigation.

Chairman Heider thanked Mr. Baugh for his testimony and asked for questions.

TESTIMONY:

Tony Poinelli, with the Association of Counties, began his presentation by stating on page 3, lines 10-19, the qualifying life events are spelled out. The intent of these lines was to indicate that for those individuals in the 100-138 percent level, there were particular circumstances when they were in need. The insurance market does open up for those individuals at varying times during the year. In most cases, the time between when they lose coverage and when the market closes is 60 days. They should have the ability to qualify for CAT and the indigent program during that time. He also stated that the current indigent program can't look at the households rather than the individual. The income level is the income of the person receiving the emergency medical care and possibly the spouse. If medical bills are far more than income level, the individual will likely be deemed indigent regardless of assets. Currently, the hospitals are doing a good job of educating people on this issue.

Chairman Heider asked for questions.

Senator Lee asked what percentage of repayment would be coming back to the counties as individuals repay their obligations. **Mr. Poinelli** said statewide, it is approximately \$2.5-3 million per year coming back into the CAT program. **Senator Lee** questioned who would pay for those people who don't have the money to repay their bills. **Mr. Poinelli** stated that there would be a shift in funds for those individuals who don't have insurance to the providers. Much of the money coming in currently is from people who are paying back their obligations from several years ago. **Senator Tippets** asked who was going to decide if a person was unable to purchase insurance during the eligibility period. **Mr. Poinelli** indicated that if an application was filed, it would go to Health and Welfare and then to the county. The counties would make the decisions after an investigation.

Senator Schmidt asked the Committee to support this Legislation and recommend it to the floor.

MOTION:

Senator Lacey moved to send **S 1101** to the floor with a **do pass** recommendation. **Vice Chairman Martin** seconded the motion.

Senator Hagedorn stated that he had concerns about the language in this Legislation. He indicated that there were issues with whether to shift costs to the private sector or to have the State pay for them. Decisions also have to be made on who is eligible for state and county support based on their level of income. Because of these concerns, he couldn't support this bill.

Senator Tippets stated that he was concerned that this bill would not encourage people to buy insurance and take responsibility for their own care and sees it as just another way to shift who pays for the care. He also sees issues with how to determine whether people are eligible to purchase insurance.

**ROLL CALL
VOTE:**

Chairman Heider called for a roll call vote. **Vice Chairman Martin, Senators Schmidt and Lacey** voted aye. **Chairman Heider, Senators Lodge, Hagedorn, Tippets and Lee** voted nay. The motion failed.

ADJOURNED:

There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:55 p.m.

Senator Heider
Chair

Erin Denker
Secretary

Sharon Pennington
Assistant Secretary