

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, March 21, 2019

TIME: 2:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Martin, Vice Chairman Souza, Senators Heider, Lee, Burtenshaw, Bayer, Jordan, and Nelson

ABSENT/ EXCUSED: Senator Harris

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 Martin** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 2:00 p.m.

PASSED THE GAVEL: Chairman Martin turned over the meeting to Senator Heider.

HONOR THE PAGE: **Chairman Martin** and the Committee members expressed their gratitude for the service of Jakob Alt who served as page for the second half of the legislative session.

S 1204 **Chairman Martin** presented **S 1204**, relating to Medicaid expansion sideboards. Chairman Martin walked the Committee through the most relevant sections of the bill. Section II presents an optional work training program, and allows access to work services which provide opportunities for participants to create a pathway to employment, including access to job search, career coaching, job training, and educational opportunities. Section III provides that the implementation of Proposition 2 will not be delayed due to action or inaction of the federal government. Section V is extremely important in that it introduces the potential for individuals to be moved into the Medicaid program. There is a question about the effect that it will have upon the Indigent and the Catastrophic Healthcare Programs that needs to be answered.

Approximately \$40 million in these programs could be moved to fund Medicaid expansion. Section V directs the Legislative Council to appoint a bipartisan task force to undertake and complete a study of the impact of the Medicaid eligibility expansion on the financial obligations of the counties and the state to provide indigent medical assistance.

DISCUSSION: **Senator Nelson** had a technical question regarding whether new sections should be identified in drafting. **Senator Heider** responded that he believed the draft legislation met all requirements.

Senator Jordan asked for assurance that, under the health risk assessment language, there is certainty that the assessment will be within the parameters of the Health Insurance Portability and Accountability Act (HIPAA) and that the information will be retained in the proper manner. **Chairman Martin** explained that there is a small addition to an already existing and implemented program. In follow up, **Senator Jordan** asked if this particular health risk assessment, geared toward identifying and assisting people with substance use disorders, will go to all Medicaid eligible recipients or just to the expansion population, and expressed concern that it establishes two different criteria. **Chairman Martin** stated his intent was not to create two classifications of Medicaid recipients, either for patient care or program administration. **Senator Jordan** cautioned that care would need to be taken in the rulemaking process to avoid that outcome.

Vice Chairman Souza commented that there are different qualification requirements for those on full Medicaid versus those on the Medicaid expansion, so there will also be a corresponding difference in program administration. **Chairman Martin** replied that how a recipient comes onto the program would, in fact, be a different classification because the expansion pertains to a certain percentage of the federal poverty level. The expansion population would be coming in through a different window, but once in the program there would not be a classification distinction.

PASSED THE GAVEL:

Senator Heider returned the gavel to Chairman Martin.

DISCUSSION:

Chairman Martin addressed those in attendance, stating the Committee had already heard testimony from many of them on this subject during hearings for **H 249** and **H 277**. He stated that **S 1204** is a compromise bill and reviewed the process for legislation as it advances through both chambers. **Senator Lee** concurred that the Committee has had a lot of discussion on this issue, has held public hearings, and has listened to lengthy and thorough debate from the House.

MOTION:

Senator Lee moved to send **S 1204** to the floor **without** recommendation. **Senator Heider** seconded the motion.

DISCUSSION:

Senator Jordan called for an opportunity to hear new testimony, stating that Idaho citizens sent an initiative to the Legislature at a substantial margin expecting that it would be observed, and have instead watched it altered repeatedly. **S 1204** might be an acceptable compromise, but from a process standpoint she feels it is incumbent upon the Committee to at least hear from some of those who are here today for that purpose. **Chairman Martin** replied that while he will always entertain a motion, it is his intent to hear testimony from as many individuals as possible within time constraints, before action on any motions. Discussion ensued about the volume of testimony heard and email received, with some agreement that they did not want to leave an impression that they were not willing to continue to listen. **Chairman Martin** then invited testimony, especially testimony providing any new information.

TESTIMONY:

Brian Whitlock, President, Idaho Hospital Association (IHA), testified in favor of **S 1204**. **Mr. Whitlock** expressed support for this bill that implements the will of the people with the lightest touch of government possible. It allows Idaho to use Medicaid dollars to address Idaho's rising mental health crisis with minimal state investment. The bill gives a hand up to those Medicaid recipients who are able to improve their lot in life through employment or other training. The IHA appreciates the inclusion of Section 5, to create a task force to address questions about indigent and catastrophic healthcare programs. It is common sense to ask questions first, and then find the right solutions; we often find ourselves crafting the solution and then wondering why the questions do not fit that solution. **Mr. Whitlock** urged the Committee to send **S 1204** to the floor with a do pass recommendation.

Jim Baugh, Executive Director, Disability Rights Idaho, spoke in favor of the bill, commending the voluntary vocational assistance and job promotion sections. Mr. Baugh considered it an excellent response to the governor's call for putting some spring in the safety net. Montana implemented a similar program which is already showing success in bringing people back into employment and independence. He also voiced strong support for the section of the bill directing the formation of a legislative task force to continue the work from seven years of task force review through the Governor's Office.

Lupé Wissel, State Director, AARP Idaho, testified in support of the bill. She concurs with the previous two speakers and added that this bill addresses those issues that affect Idahoans between the ages of 50 and 64. It is harder for this age group to get back into employment and this bill really helps a population that needs help. It provides an opportunity to access training to enhance their skills to be competitive in the a new workplace.

Rebecca Schroeder, Executive Director, Reclaim Idaho, testified in support of the bill. Reclaim Idaho worked tirelessly to expand Medicaid access in Idaho and represents 61 percent of Idahoans who voted yes on Proposition 2. While Reclaim Idaho will continue to support a clean Medicaid expansion, this compromise bill does not construct barriers to coverage, wcreate a secondary gap, and waste millions of taxpayer dollars, which is why they are taking the extraordinary step of supporting this legislation. Encouraging is the move from the mandatory work requirement to the Montana style, voluntary work and training program. Nonpartisan studies of the Montana program show that it provides high quality workforce employment services and real opportunities to advance careers and earning potential without the threat of losing coverage. Because this is a true compromise bill, Reclaim Idaho finds no reason to delay moving forward with this legislation.

Mary Ann Reuter, Executive Director, Idaho Rural Health Association, testified in support of the bill on behalf of the organization's 200 members. Health disparities hit rural communities hard where residents often live sicker and die sooner than their urban neighbors from unnecessary and costly barriers to coverage, such as the mandatory work reporting requirements of **H 277**. Work requirements ignore the reasons people are not in the workforce, such as credit history, lack of transportation, or poor physical health. On the other hand, linking rural residents to services such as career counseling, training, and educational opportunities, can help them overcome those barriers to employment. Montana's Help Link participants are employed at a higher rate and are earning better wages than those not in the program, with an average wage increase of \$8,712 annually. Almost 80 percent of Idaho's legislative districts have voted to give Idahoans a helping hand by reducing barriers to unemployment and health care, instead of adding more.

Dr. Lee Binion, Medical Doctor (MD), representing the Idaho College of Emergency Physicians, spoke on their behalf in support of the bill. **Dr. Binion** has been a practicing emergency physician for 27 years in Idaho and Oregon. Hospital emergency departments are safety nets that care for every patient who comes through their doors. Emergency physicians see patients evenings, nights, weekends, and holidays, even when they don't have insurance, but emergency departments do not substitute for primary care. The adage of "an ounce of prevention" is still true today: early detection of prostate, breast, colon, and cervical cancer clearly ensures longer and healthier lives. Research proves that long-term treatment and stabilization of diabetes and hypertension, and the control of weight and regular exercise, decrease the risk of stroke and heart attack, cancer, and trauma. Providing access to healthcare is essential for healthy Idahoans from birth to old age. It is important that this healthcare not be contingent on anything. Good health leads to good education, that leads to good job opportunities, which in turn leads to good, long lives. The Idaho College of Emergency Physicians is

available to help develop a Medicaid expansion program that is sustainable and evidence-based without political bias. Their membership is made up of conservative and progressive individuals, but as a whole comes together to support access to healthcare across Idaho. The membership supports this bill with one suggestion: instead of making substance use screening mandatory at the level of applying for Medicaid, it should be the job of our primary care providers. Primary care providers could then refer a patient to a treatment center just as they would refer them to a cardiologist, or an orthopedic surgeon.

DISCUSSION: **Vice Chairman Souza** thanked Dr. Binion for her expert testimony as an emergency room doctor and inquired about the frequency of substance abuse as the base-level problem for patients seen in the emergency room. **Dr. Binion** reported that they see these cases every day. **Vice Chairman Souza** asked whether Idaho has enough treatment available for those that need it, and how to get those people that are in the expansion group and not working because of substance abuse issues, able to work. **Dr. Binion** replied that the question is hard to answer because Idaho has no statistical basis on which to build. What they do know is that patients don't have the ability to get into treatment to begin with.

TESTIMONY: **Sam Sandmire** testified on her own behalf in support of the bill. Being involved in the Medicaid expansion campaign and the citizens initiative, engaging with voters face-to-face in every corner of the state, both urban and rural, has renewed her faith in Idaho. During this legislative session, she observed and engaged with elected officials, more volunteers, and both paid and unpaid lobbyists. She observed politics taking precedence over people. **S 1204** is not one of those bills. This compromise bill will not cost taxpayers millions of dollars, and will not create a second gap. While this legislative session has provided her with many lows, the few highs have occurred when elected officials did what they were elected to do: govern.

Don Kemper, retired CEO, Healthwise, spoke in support of the bill. The mission of Healthwise is to help people make better health decisions. **Mr. Kemper** spoke to the importance of having healthcare coverage for the viability of an individual or family. Voters voted for a clean Medicaid expansion bill and it was clear the intention was to close the gap. **Mr. Kemper** noted four things after careful review of **S 1204**: 1.) the addition of substance use questions for the health risk assessment more appropriately belongs in primary care; 2.) The addition of voluntary job hunting and training opportunities is also smart and cost effective; 3.) The way the bill protects our state in case federal funding commitment drops below 90 percent was done in a smart way; and 4.) This is intelligent legislation that represents the intent of the voters, even as it adds protections for the state and extra help for those in need.

Kay Hummel, Boise native, spoke in favor of the bill. **Ms. Hummel** reported that just two days ago, Kentucky and Arkansas were embroiled in expensive litigation over work requirements imposed on Medicaid. Yesterday, New Hampshire entered litigation. The fiscal irresponsibility of going down the inadvisable hole of work requirements would add significant expense to cover a morass of bureaucracy.

Alicia Abbott, Reclaim Idaho Volunteers of Bonner County, spoke in favor of the bill on behalf of her team and community. While they would prefer unaltered expansion, they recognize that this legislation does not have the harmful work requirements as highlighted in other sideboard bills presented this year, and instead promotes an opt-in worker training program already proven successful in Montana. Reporting technicalities on work requirements restrict coverage and create a new gap. **S 1204** removes the possibility of those challenges in favor of a solution proven to increase success through workforce training programs. While well-paying, skilled positions are left empty, training programs like these are vital to promoting a more robust workforce and pulling people out of poverty. Montana reports that an average of 69 percent of the Medicaid gap population has been lifted into better paying jobs

through their opt-in Help Link. Not creating wasteful bureaucracy, or a new gap, and closing the gap, was Reclaim Idaho's main objective and this bill does that.

Seth Grigg, Executive Director, Association of Counties, testified in support of the bill and spoke specifically to two sections of the bill. **Mr. Grigg** was able to answer Senator Nelson's question raised earlier regarding Section V: it is part of the session law, not part of the law itself, and therefore does not bear statutory framework. He then spoke to the Institutes for Mental Diseases (IMD) waiver, stating it is absolutely critical to county indigent payments. Of the roughly \$40 million spent annually in Idaho on indigent healthcare, half of that comes from counties. Counties have spent roughly \$8.5 million in mental health indigent healthcare over the past five years. Much of that comes from two high population counties: Ada County and Canyon County at \$7.5 million, to cover involuntary mental health commitments to secure psychiatric facilities for their safety. Treasure Valley has two standalone psychiatric hospitals. Because of their IMD status, they are precluded by federal law from accepting Medicaid payments, so the counties bear the full expense for those patients. The IMD waiver is critical to save counties and taxpayers that expense. **Mr. Grigg** added that the intent to create a task force is critical in order to fully understand the overall impact of expansion on this population and how potential savings will be directed at the county and state level.

Christine Pisani, Executive Director, Idaho Council on Developmental Disability (Council), spoke on the Council's behalf in support of the bill. The Council is authorized by federal and state law to monitor services, systems, and policies, and to advocate for improved services that enable Idahoans with intellectual and developmental disabilities to live meaningful lives. The Council supports **S 1024** for four main reasons: 1.) this thoughtfully-crafted legislation provides a positive approach to assisting Idaho residents in finding and keeping a job; 2.) the approach helps people who are able to work by assisting them with individual employment barriers; 3.) it does not punish people by taking their healthcare coverage away for inability to work (there are approximately 20,000 Idahoans who experience severe and persistent mental illness who could lose coverage under a work requirement); and 4.) it affords Idahoans who experience serious and persistent mental illness access to comprehensive healthcare coverage that is not available through private health insurance. **Ms. Pisani** recommended that the legislative task force that will evaluate the effectiveness of Medicaid expansion and its financial impact, might also study health outcomes achieved as a result of Medicaid expansion.

Sylvia Chariton, American Association of University Women of Idaho, spoke on their behalf in support of the bill, calling it "the best of show" after multiple iterations. **Ms. Chariton** urged the Committee to not spend more Idaho money than necessary to administer this program, instead using state money to leverage federal funds to provide needed care to keep Idahoans working, or to help them become healthy enough to work.

Fred Birnbaum, Idaho Freedom Foundation (IFF), testified in opposition to the bill stating the spending trajectory for Medicaid is not sustainable and he predicted a six-fold growth in Medicaid spending under expansion. IFF recommends work requirements and that those in or above the 100-138 percentile should be enrolled in private insurance and utilize the advanced premium tax credits. **Vice Chairman Souza** asked Mr. Birnbaum to provide clarity regarding his statement that this bill will not change the upward trajectory in Medicaid spending. She asked if he felt that the House Medicaid bill would do a better job than this one, or if it too, would not affect the spending trajectory. **Mr. Birnbaum** expressed his opinion that the House bill appears more fiscally responsible, but added that since there is no projection, there is no projected savings in the fiscal note. He referred to a study that estimates the state spending at least \$20 million more in Medicaid per year. He speculated

that with sideboards, the offset savings to the Catastrophic and Substance Abuse programs would drop costs closer to \$5-6 million in state spending.

Dr. Patrice Burgess spoke on behalf of the Idaho Medical Association (IMA) in support of the bill. The IMA's 3,000 members represent about 80 percent of Idaho's physicians. The IMA offered unprecedented support for Medicaid expansion for three reasons: 1.) emergency physicians see firsthand the effects of lack of insurance coverage on the working poor;. 2.) the Medicaid program actually runs quite well: Medicaid program in the Department of Health and Welfare is easy to communicate with. It is very easy to know what is covered and what is not and how to appeal a decision if needed; and 3.) many physicians run their own businesses and leveraging the federal tax dollars makes sense. A lot of those dollars are Idaho tax dollars that we send to the federal government, and we would like them to be used to help our fellow Idahoans. The IMA Board determined three criteria for bills that would not be acceptable: 1.) removing coverage from people in the gap; 2.) added administrative burden and increased cost to the state; and 3.) delay in implementation of Medicaid expansion. The IMA found that this bill does not do any of those things, is very happy with this bill, and urges a do pass recommendation.

Emily McClure testified in support of the bill on behalf of Idaho Voices for Children. The organization considers Medicaid expansion from the perspective of impact to children and families, and believes that healthy parents lead to stronger families and stronger children. **S 1204** is a really good compromise that respects the will of the voters and provides good stewardship of taxpayer dollars. **Vice Chairman Souza** commented that it was her understanding that the House bill allowed for exemptions to the mandatory work requirement for any parent with a child in the home under 18 years of age, and asked Ms. McClure if that would not also work to create healthy families. **Ms. McClure** responded that there are some elements of the House bill that would help to create healthy families, but there are other elements of that bill which this organization believes would actually work in contradiction to that end goal. There is more than one way to reach that end goal and **S 1204** does it better.

Luke Cavenar, Director of Government Affairs, The American Cancer Society Cancer Action Network (ACS-CAN), spoke in support of the bill on behalf of cancer patients, caregivers, and survivors in Idaho. **Mr. Cavenar** commended the Committee for their due diligence, civility, and thoughtfulness, specifically related to this bill. While the Committee has heard testimony in support of an unmodified implementation, **Mr. Cavenar** believes that this bill actually improves upon what the voters supported with Proposition 2. The approach to employment and training is both responsible and compassionate, and will have a huge impact on Idahoans, especially caregivers. When many caregivers are ready to return to work, they find that their position no longer exists. Providing a pathway for employment and helping our working poor to grow in their careers is truly the Idaho way. He voiced ACS-CAN's support for the provision that would allow the Legislature to consider nullifying the bill should federal match funding be modified, calling it prudent policy making. ACS-CAN supports the task force, encouraging engagement of healthcare professionals in that review. **Mr. Cavenar** reflected that this process taught him that when we bring together thoughtful, caring, and civic-minded individuals, the best ideas win.

SUBSTITUTE MOTION:

Senator Heider moved to send **S 1204** to the floor with a **do pass** recommendation. **Senator Jordan** seconded the motion.

DISCUSSION:

Senator Heider commented that the fact that all testimony today was in favor of the bill, with the exception of the Freedom Foundation, is a tremendous recommendation that this bill was well-drafted.

Senator Jordan apologized for any confusion at the beginning of the meeting; her impression was that when a motion was on the floor, it must be acted upon at that time. She expressed gratitude that the Committee proceeded to take testimony, adding that she believes it is one of their most important responsibilities.

Chairman Martin thanked everyone for their attendance and apologized for not being able to hear everyone who signed up to testify today. Over the last several weeks, the Committee has heard from many of these same individuals on numerous occasions. The Committee endeavors to be respectful of the process while also honoring other commitments that Committee members have before them.

Senator Lee spoke to the original motion, stating her goal was to expedite moving this bill out of Committee today. She stated that it is important to get these ideas, and good policy, moving through the process in whatever manner the Committee supports, and reserved her right to reconsider her position. She added that there are elements of the bill that she supports, and others that she would prefer were different, and that her constituents wish were different, but she will support whatever motion that moves the bill to the floor.

Senator Harris echoed the opinion of Senator Lee, stating there are good elements in the bill, but others that he is less comfortable with, but he will support whatever motion that will move the bill to the floor.

Vice Chairman Souza concurred with the need to move the bill out of Committee, but believes that the best strategy is to pass it without recommendation. The House is currently debating their version of this bill and if they hear that the Senate Committee just recommended a bill that will compete with theirs, it may cause friction and negatively influence the outcome. It is her opinion that we must present an adequate sideboards bill that meets the needs of both sides of the rotunda, so that it can pass both chambers. The Senate passed the appropriation bill for Medicaid expansion; the House still has not done that. The House passed their Medicaid expansion sideboard bill out of Committee without recommendation yesterday and it is her opinion that this Committee should mirror their action.

**ROLL CALL
VOTE ON
SUBSTITUTE
MOTION:**

At the request of Senator Heider, Chairman Martin called for a roll call vote. **Chairman Martin** and **Senators Heider, Burtenshaw, Jordan, and Nelson** voted aye. **Vice Chairman Souza** and **Senators Lee, Harris and Bayer** voted nay. The substitute motion carried.

ADJOURNED:

There being no further business at this time, **Chairman Martin** adjourned the meeting at 3:15 p.m.

Senator Martin
Chair

Margaret Major
Secretary