

IMPulse

Intermountain Media Pulse

A TRUETONE INCORPORATED COMPANY

**news
CLIP**

11623 Lake Shore
Nampa, ID 83686
(208) 880-9814

FOR YOUR INFORMATION

The Idaho Statesman

Boise, Idaho

Thursday, February 15, 2018

Nate Poppino & Audrey Dutton

Page 1 of 3

Otter defends Idaho health insurance move, Little's role as questions swirl in Congress

Gov. Butch Otter renewed his defense Thursday of his January executive order on health insurance - and of the involvement of Lt. Gov. Brad Little - amid fresh national criticism of the move to circumvent the Affordable Care Act.

The order, signed by Otter and Little in front of reporters Jan. 5 at a legislative preview forum, allows some Idaho health insurance plans to drop certain ACA requirements. It cites December's federal tax reform, which dropped only the individual insurance mandate central to the ACA, as providing an opening to pursue the idea.

Idahoans got a first look at what that means Wednesday, when Blue Cross of Idaho announced that it had filed to create five "state-based" plans under the new framework. Its plans allow the company to base pricing on elements of a person's medical history. They add more out-of-pocket costs for patients. And they include \$1 million annual claim limits; anyone who hits the latter would be transferred to an ACA-compliant plan on Idaho's state insurance exchange. Blue Cross expects the state to take up to a month to review them for approval.

Blue Cross' announcement renewed a national furor. A group of medical associations sent a plea to Alex Azar, the recently confirmed U.S. Health and Human Services secretary, to push back against the Idaho plans. And Azar fielded questions on the matter from Congress over the past two days, though he appeared not to be familiar with the specifics.

At a Senate Finance Committee hearing Thursday, Azar first told a concerned Sen. Ron Wyden, D-Ore., that he would wait until Idaho officials sent a waiver application, then measure "it up against the standards of the law." When Wyden said Idaho was moving forward without a waiver, Azar suggested that he would wait until the state reviews the plans - which Blue Cross created in response to a solicit from the state.

Sen. Mike Crapo, R-Idaho, is on the same committee and spoke up to defend the plans as a legally allowable state experiment.

"I don't want to prematurely be involved before there's even a matter in controversy at the state level," said Azar, who noted he had read media reports but had not looked at Blue Cross' actual plan yet.

Otter brushed off questions about Azar's comments at a Thursday morning forum organized by the Idaho Press Club. "I thought he handled it well," the governor said of the congressional hearings.

IMPulse

Intermountain Media Pulse

A TRUETONE INCORPORATED COMPANY

**news
CLIP**

11623 Lake Shore
Nampa, ID 83686
(208) 880-9814

FOR YOUR INFORMATION

The Idaho Statesman

Boise, Idaho

Thursday, February 15, 2018

Nate Poppino & Audrey Dutton

Page 2 of 3

And Otter again rebuffed any suggestion that the rollout of the executive order veered improperly into Little's election campaign. The lieutenant governor is running to replace Otter; the current governor has endorsed him, and Otter said Thursday that "frankly, I'm stumping for the lieutenant governor all the time."

After the public signing, the pair toured the state to defend and explain the health insurance order - necessary, Otter said, because of immediate criticisms and confusion over the plans. Meanwhile, Little has posted on social media and written in guest columns about "ending Obamacare for many Idahoans." Tommy Ahlquist, one of Little's Republican competitors, quickly accused Little last month of "campaigning on Idaho taxpayer dollars."

By ending Obamacare for many Idahoans we are restoring choice and affordability back into the healthcare marketplace. It's unfortunate but not surprising that congressional democrats disagree with a majority of Idahoans. #idpol #idleg #idgop LINK: <https://t.co/Cp4qFo8DwO> pic.twitter.com/Aq3XMNa3k8— Brad Little (@LtGovBradLittle) January 31, 2018 //

An email obtained by The Associated Press shows Department of Insurance Director Dean Cameron was concerned about public perception before the Jan. 5 signing.

"Remember I have statutory prohibition about being involved in elections," Cameron wrote, according to the AP. "It is frustrating to me but I have to be careful about my appearances with candidates and I do not want the good efforts of tomorrow to get side tracked by opponents."

Otter argued Thursday that only "opponents and folks in the media" have questioned Little's role. He described the process that led to the order, starting in spring 2017 as Congress attempted to tackle health care reform and replace the ACA, and he insisted that Little played a vital role throughout.

"We knew what repeal meant. We didn't know what replace meant," Otter said. "We put together a task force ... If we were king for a day, what would we like to see?"

Little was a member of Otter's task force from the start, the governor said. But his role grew last summer, when a postsurgery infection took Otter out of the office for five weeks.

"He was part of all the study," Otter said. "He was part of all the testimony."

Little was traveling Thursday and could not be directly reached. But Ysabel Bilbao, spokeswoman for the lieutenant governor's office, said that the efforts around the executive order were official business, and that Little and his staffs "go through great efforts" to keep that work and his campaign separate.

Bilbao said Little led the insurance effort for four months amid Otter's extended recovery.

"The plan is as much his as it is the governor's," she wrote in an email.

Otter compared the situation to a past round of the early-January preview forum at which Sen. Patti Anne Lodge and former Rep. Rich Wills spoke about revamping Idaho's criminal justice system.

IMPulse

Intermountain Media Pulse

A TRUETONE INCORPORATED COMPANY

**news
CLIP**

11623 Lake Shore
Nampa, ID 83686
(208) 880-9814

FOR YOUR INFORMATION

The Idaho Statesman

Boise, Idaho

Thursday, February 15, 2018

Nate Poppino & Audrey Dutton

Page 3 of 3

"Nobody suggested that was a campaign, and they were both campaigning for office again. ... I'm sorry if people took it otherwise," the governor said, returning back to Little. "I can't help that."

Gearing for lawsuits

Not everyone is rushing to create the new plans in Idaho.

In an email to the Statesman on Thursday, a spokesman for Regence BlueShield of Idaho said that company believes this state still needs to secure a federal waiver for the plans.

"The Affordable Care Act is still valid law, and we do not see how the guidance contained in the Jan. 24, 2018, bulletin fits within that framework," the email said.

Most health care experts quoted in recent national reports have said they believe the plans and framework are illegal and will attract lawsuits.

Richard Epstein is a law professor in Chicago and New York who is acting as a consultant for Blue Cross of Idaho. He said it would be blatantly illegal for Idaho to shut down its ACA plans and offer only the "state-based" plans. But to allow both of them makes the legality a matter of interpretation - and a question of whether the federal government wants to flex its enforcement muscles.

He said the Obama administration basically allowed health plans to violate the ACA's rules on annual limits for a couple of early years, though that process was done through a waiver.

And, he noted possible political danger in blocking Idaho's new plans: "Do you really want to have to face the wrath of 150,000 people who can't get the moderately priced plan?"

"The sensible thing is to get the waiver done, get the program up, then deal with the protest movements," Epstein said.

Blue Cross officials earlier this week said they believe the fact that they're following state guidance, from the authorities tasked with enforcing the ACA, gives them solid ground.

Otter and Little, meanwhile, appear unconcerned about any possible action against the state.

Otter said he wasn't sure how the state government would factor into a lawsuit when the insurers are the ones actually selling the plans. "The insurance companies are the ones that get sued, not Idaho," he said.

And Little? "Lt. Gov. Little believes he can't be worried about the threat of lawsuits when he should be worried about affordability and choice in health care," Bilbao wrote. "Little also believes like many Idahoans do, that it is time for the government to stop telling us what we can or cannot do."

###

Copyright 2018 The Idaho Statesman