

MINUTES
SENATE EDUCATION COMMITTEE

DATE: Thursday, February 23, 2023

TIME: 3:00 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Lent, Vice Chairman Toews, Senators Den Hartog, Nichols, Carlson, Herndon, Ward-Engelking, and Semmelroth

ABSENT/ EXCUSED: Senator Lenney

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 Lent** called the Senate Education Committee (Committee) to order at 3:03 p.m.

WELCOME: **Chairman Lent** welcomed new Senate Page, Gabriel Carroll, and invited him to introduce himself for the Committee.

Gabriel Carroll stated he was originally from Boise, Idaho. He mentioned he was an early graduate of Boise High School. He described a few of his interests which included biking, boxing, and playing video games. **Mr. Carroll** planned on attending Lewis and Clark State College to study elementary education. He specified that he would like to be a 5th-grade teacher.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of January 17, 2023. **Vice Chairman Toews** seconded the motion. The motion carried by **voice vote**.

H 92: **Education - Adds to existing law to require financial literacy courses in certain grades.** **Representative Petzke** spoke to the merits of the bill as a way of preparing Idaho students for important financial decisions that they may face later in life. He pointed out that after graduating high school, citizens needed to make some of the most important financial decisions of their lives. Without any kind of preparation, citizens would struggle to make informed decisions on their personal finances. **Representative Petzke** noted that many schools were starting to implement some sort of financial literacy instruction, typically in the form of an elective course. This bill would make financial literacy instruction a requirement for graduating high school.

Representative Petzke addressed concerns about a section in the bill which included a requirement for behavioral economics by explaining what behavioral economics was and why he felt it was important to include it in this bill.

DISCUSSION: **Senator Ward-Engelking** commented that she believed this bill was a good idea and supported its passage. She asked Representative Petzke how he saw financial literacy fitting into public school curricula. **Representative Petzke** stated the bill required the creation of a financial literacy class, but that it could be included in already existing economics or math classes.

Senator Semmelroth asked if teacher preparation providers were responsible for preparing teachers to teach this subject. **Representative Petzke** answered to his knowledge there would be no requirements for teacher preparation providers.

Senator Herndon asked how was it that the bill would have no impact on the General Fund. **Representative Petzke** pointed out there was financial literacy curriculum that was freely available for all school districts to access and this bill would not add to the total number of classes required for graduation.

TESTIMONY: The following testified in favor of **H 92**: Nicole Trakel, Daniel Murphy, EmmaLee Robinson, and Debbie Critchfield, Superintendent, Idaho State Board of Education. Comments from those who testified included: learning financial literacy benefited Idaho students by better preparing them for crucial financial decisions; the current curriculum did not prepare students for financial challenges; financial literacy education benefited all students no matter which career path they chose; the bill did not create an additional graduation requirement based on the way it was structured.

There was no testimony in opposition to the bill.

DISCUSSION: **Senator Herndon** asked Ms. Critchfield how there could be no fiscal impact on the General Fund when the bill stated the State Department of Education would make funds available for professional development focused on financial literacy courses. **Ms. Critchfield** referred to a line item in the public schools budget relating to content and curriculum and stated there was an increase in this line item with an expectation that financial literacy would be included. She also reemphasized that most of the available curriculum for financial literacy was available for free.

Senator Ward-Engelking thanked Ms. Critchfield for her work on this bill and pointed out to the Committee that many financial institutions developed free grade-level appropriate curricula for schools to use.

Senator Carlson thanked the sponsor of the bill and was appreciative of the bill addressing a problem that she was dissatisfied with for a few years.

Ms. Critchfield acknowledged the initiative of Representative Petzke for bringing this issue forward to the Legislature

MOTION: **Senator Ward-Engelking** moved to send **H 92** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion. The motion passed by **voice vote**.

S 1100

Education - Adds to existing law to establish privacy and safety in public schools. **Senator Adams** explained the purpose of **S 1100** and went through the important provisions of the bill for the Committee. He emphasized the inherent physical differences between individuals of the opposite biological sex and this bill was based on these differences. This bill ensured that students at public schools could only use the restroom or changing room that corresponded with their biological sex. Included in the bill were exceptions to this rule, such as emergency scenarios or natural disasters. **Senator Adams** highlighted this bill attempted to guarantee the right-to-privacy for all students in Idaho public schools. He pointed out that if a student was for any reason unwilling or unable to use a multi-occupancy restroom or changing room, then the school must make an accommodation for them. This bill would set clear policy for all Idaho public schools in relation to this issue. **Senator Adams** stated **S 1100** addressed relevant problems that students in public schools faced and it did not discriminate against any students.

Blaine Konzatti, President, Idaho Family Policy Center, gave an overview of the legal strength and constitutionality of the bill. He explained that the bill was legally based on Title IX of the Education Amendments of 1972 which explicitly allowed separate restrooms and changing facilities for biological men and women. **Mr. Konzatti** addressed concerns over a loss of federal funding if this bill was enacted into law, saying based on recent federal court decisions, this was unlikely to happen. He also mentioned recent court decisions from other states and circuit courts which supported the constitutionality of the bill and emphasized its legal defensibility.

DISCUSSION:

Senator Semmelroth asked Senator Adams if he thought transgender students were people. **Senator Adams** stated regardless of a person's sex, they were a person. **Senator Semmelroth** asked why transgender students were not afforded the same right-to-privacy that other students possessed through this bill. **Senator Adams** insisted the bill afforded all students the same right-to-privacy.

Senator Ward-Engelking pointed out that there was no exemption for coaches of the opposite sex to be in the same changing or locker room as their team. **Senator Adams** insisted that if Senator Ward-Engelking brought an amendment to the bill to address this, he would welcome it.

Senator Semmelroth asked Mr. Konzatti what harm this bill tried to prevent and how many cases of this harm were documented in Idaho. **Mr. Konzatti** directed Senator Semmelroth to the legislative findings in the bill which outlined different potential dangers and psychological problems that could arise when school restrooms or locker rooms were shared. He mentioned a few of the school districts changed restroom policies in recent years due to pressure from the Biden administration. **Senator Semmelroth** asked if this bill applied to private schools. **Mr. Konzatti** replied that this bill did not apply to private schools, since it was not within the jurisdiction of the bill.

Senator Herndon asked Mr. Konzatti if he was aware of any enumerated powers in the United States Constitution that would allow the President of the United States (POTUS) to control restroom policy in Idaho. **Mr. Konzatti** responded that he was not aware of any enumerated powers that would allow POTUS to do this.

Senator Ward-Engelking expressed concern over the civil course of action that was included in the bill. She remarked that the statute of limitation was too long and the penalty was too steep. **Senator Adams** claimed the civil course of action was available only if a school gave permission to a person to use a restroom of the opposite sex or if the school failed to take reasonable steps to prohibit a person to use a restroom of the opposite sex. He mentioned the statute of limitation included in the bill was typical for cases involving minors.

Senator Ward-Engelking commented she saw the exemptions in the bill as contradictory to the provision that said a school could be civilly liable if they granted someone permission to use a bathroom of the opposite sex. **Mr. Conzatti** explained it was normal to give exemptions to laws dealing with civil liability and he did not see the exemptions as contradictory to the civil liability she mentioned.

TESTIMONY: The following testified in favor of the bill: MarryEllen Nourse, Nicole Trakel, Senator Chris Trakel, Michael Luis, Steven Keyser, Heidi Smith, Brenda Gilchrist, Melissa Blevins, Matt Edwards, Michael Hon, Daniel Murphy, Brandon Durst, Idaho Freedom Action, Channing Cox, Lyle Johnstone, and Kristi Hardy.

Comments from those who testified for the bill included: the bill created a uniform policy for all public schools in Idaho; the bill took pressure off of school boards who were wary about taking action on this subject; the bill was an important step in ensuring school safety and privacy for Idaho students; and the bill included accommodations for students who did not feel comfortable using the bathroom that corresponded with their biological sex.

The following testified in opposition to the bill: Lily Pannkuk, Alex Kuyper, Diane Terhune, Emilia Connelly, Amy Dundon, American Civil Liberties Union, Chelsea Gaona-Lincoln, and Robert Jackson.

Comments from those who testified against the bill included: the bill unfairly singled out transgender students and did nothing to protect them from harassment; the bill would perpetuate harmful stereotypes that labeled transgender individuals as predators; the bill put transgender individuals at an increased risk for depression and suicide; sexual misconduct by transgender individuals was not a real problem in Idaho; and the bill would force teachers and staff to police school bathrooms, which would take focus away from their job.

RECESS: The Committee took a 15-minute recess after hearing testimony. **Chairman Lent** reconvened the meeting at 4:45 p.m.

DISCUSSION: **Senator Ward-Engelking** outlined her concerns with the bill, which included: how the school would verify the biological sex of students and other individuals; there were not enough exemptions for the schools to provide in the bill; and the penalty and the statute of limitation for the civil course of action included in the bill was problematic.

MOTION: **Senator Ward-Engelking** moved to send **S 1100** to the 14th Order of Business for possible amendment. **Senator Semmelroth** seconded the motion.

SUBSTITUTE MOTION: **Senator Herndon** moved to send **S 1100** to the floor with a **do pass** recommendation. **Senator Nichols** seconded the motion.

DISCUSSION: **Senator Herndon** commented school boards in the State were looking to the Legislature for guidance on this controversial issue and this bill provided clarity for them. He believed that the bill provided clear exemptions and that the civil cause of action was not going to be a problem for schools.

Senator Carlson said that she supported the bill and would be supporting the substitute motion. She emphasized that school districts needed a clear direction from the Legislature on this issue.

Vice Chairman Toews spoke in support of the bill and praised the sponsors for the exemptions and reasonable accommodations section of the bill.

Senator Nichols highlighted how the bill was legally sound and proved to be

constitutionally valid based on prior court cases. She voiced her support for the bill and the substitute motion.

Senator Den Hartog mentioned she was going to support the substitute motion, but also voiced support for an exemption Senator Ward-Engelking brought up for school coaches, which was not included in the bill. If the bill was not going to be brought to the 14th Order of Business for possible amendment, she supported adding this exemption through a trailer bill.

Senator Semmelroth declared her support for the original motion and expressed concern over the lack of clarity for the civil course of action portion of the bill.

Senator Herndon addressed the coach exemption brought forward by Senator Ward-Engelking, saying this exemption was unnecessary and it made more sense for coaches of the opposite sex to be excluded from changing rooms and locker rooms. He supported the way the bill was constructed as it was and did not believe any more exemptions were necessary. **Senator Ward-Engelking** responded as a former coach herself, she believed that this exemption was necessary.

**ROLL CALL
VOTE:**

Senator Herndon requested a roll call vote for the substitute motion to send **S 1100** to the floor with a **do pass** recommendation. **Chairman Lent, Vice Chairman Toews**, and **Senators Den Hartog, Nichols, Carlson, and Herndon** voted aye. **Senators Ward-Engelking and Semmelroth** voted nay. The substitute motion passed.

ADJOURNED:

There being no further business at this time, **Chairman Lent** adjourned the meeting at 5:04 p.m.

Senator Lent
Chair

Linette Grantham
Secretary

Tyler Allen
Assistant Secretary