

MINUTES
SENATE EDUCATION COMMITTEE

DATE: Wednesday, March 01, 2023

TIME: 3:00 P.M.

PLACE: Room WW55

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

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.

INTRODUCTION: **Chairman Lent** called the meeting of the Senate Education Committee (Committee) to order at 3:01 p.m.

MINUTES APPROVAL: **Senator Ward-Engelking** moved to approve the Minutes of January 25, 2023. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

S 1125

EDUCATION - Amends existing law to revise provisions regarding the enrollment and transfer of pupils. **Senator Den Hartog** stated the bill was introduced in a privileged committee, thus allowed for a consensus from the Superintendent of Public Instruction Office, Governor's Office, Idaho Association of School Administrators, and Idaho School Boards Association. **Senator Den Hartog** noted this comprehensive bill allowed families to more easily send their children to public schools that worked best for them. Current law allowed school districts to opt out of open enrollment, charge tuition to parents if their child enrolled from another district, and lacked flexibility in a new era of student mobility. The bill change required districts to have a policy for open enrollment. Districts could no longer opt out of open enrollment, and explicitly prohibited discriminating against students for open enrollment and required districts to publish their policies on their website.

Senator Den Hartog explained the bill exempted district-run schools, and schools of choice. Open enrollment was for Idaho students and did not change border state contracts for out-of-state students. Parents did not have to reapply every year to keep their child in the same school, which simplified the process, allowed districts to utilize current technology, student tracking, and data transfer remained the same. She stated this legislation provided parents a way to apply outside of the traditional open enrollment window and districts were not forced to enroll a student if they did not have capacity for that grade, class or building. It also recognized that some students may change schools at the beginning of the school year or outside of the traditional period. The districts were now required to provide a reason for denial, along with revoked open enrollment status. This provision also was related to disciplinary issues, expulsion, chronic absenteeism, and capacity issues. Parents were not required to give notice or reapply. Districts may charge one another for student funding or exchange funds, but could not charge Idaho parents. Idaho high school sports was separated from this law. **Senator Den Hartog** noted Idaho High School Athletics Association (IHSAA) governed the process when students transferred and what rules applied. Sports and athletics eligibility fell under the IHSAA. The bill addressed reasons that districts could revoke open enrollment or deny a student from re-enrolling for subsequent years. **Senator Den Hartog** stated the school district could consider if the student was a good fit for that community and addressed specific criteria why a student may be denied re-enrollment

status. Definition of capacity limits, posting of availability on their websites, and establishment of an appeals process was also covered in this legislation.

DISCUSSION:

Senator Herndon provided an example of two adjacent districts, Lake Ponderay and West Bonner. He queried if a student attended one of those elementary schools, what would their options be now versus what they did not have offered today. **Senator Den Hartog** noted if both of those districts did not have open enrollment policies today because of the current legislation, both districts would be required to create an open enrollment policy, evaluate their capacity, and post the information on the school websites. If a district had multiple schools in the district, there were two ways a student could enroll: in-district enrollment, or by zip code assigned. Students in those districts took first priority. If a student wanted to go to a different school district, they must check whether or not that district had availability in their child's grade, submit an application for review, which included time of year, capacity available, and if the student met requirements allowed for enrollment. If the application was within the open enrollment time frame, families followed the processes and started the following school year.

Senator Nichols posed several questions in regards to posting available spaces. She asked would daily attendance numbers be used. If so, was this viable.

Senator Den Hartog noted that enrollment had to comply with target class size for the district and was not based on average daily attendance, but enrollment for the class. **Senator Nichols** queried would schools be required to do a waiting list. **Senator Den Hartog** replied a waiting list was not required. For instance, if a need arose during the school year, having enrollment information readily available on-line was a useful tool for families in assessing options.

Senator Herndon inquired what was the percentage of districts that did not have open enrollment policies and what dates could students transfer within district or out of district.

Kate Haas, representing yes. every kid, stated February was the traditional open enrollment application "hard" deadline. Under this bill, the deadline existed, but with a "soft" deadline, which allowed the districts to do planning and the families to apply anytime after the February deadline.

Senator Herndon asked under this legislation how many districts experienced major changes versus what was today. He questioned if districts were doing open enrollment already. **Senator Den Hartog** noted that currently many districts participated in open enrollment. However, as new facilities opened, it may facilitate new opportunities, and options for families.

Senator Ward-Engelking surmised that quite a few districts had this process in place. This legislation accommodated parents, students, and would ensure a better fit.

MOTION:

Senator Ward-Engelking moved to send **S 1125** to the floor with a **do pass** recommendation. **Senator Herndon** seconded the motion. The motion carried by **voice vote**.

EDUCATION - Amends and adds to existing law to provide for the Public School Endowment Income Facilities fund. **Chairman Lent** explained in the Summer of 2022, an interim committee was formed, comprised of stakeholders from various organizations to establish a metric to fund school facilities in Idaho. Over the past 30 years, there had been five plus lawsuits brought forward in regards to the constitutional responsibility of the Legislature to adequately fund schools in the State. The Idaho Supreme Court questioned if facilities were being properly funded and noted there was too much reliance on local property taxes. In January 2022 the Office of Performance Evaluation (OPE) released findings for public K-12 buildings. OPE found that school districts struggling to maintain school structures, led to an estimated \$800 million maintenance backlog. The report cited charter schools and public schools lacked the ability for acquisition of new buildings. BLUUM reported 100 new school buildings would be needed by 2030 to accommodate growth in the State. There were contributing factors: aging facilities, rising population in Idaho, and escalated costs. These factors contributed to districts running more bonds to pay for essential facilities, which was funded by property taxes. He noted input was received in regards to federal funds being utilized, a standardized model for the design of buildings to leverage costs, Elementary and Secondary School Emergency Relief (ESSER) funds, School Facility Construction fund, and revolving loans. **Chairman Lent** noted the interim committee concurred to move forward on legislation and collaborated with the Legislative Service Office (LSO), Deputy Division Manager, Jared Tatro. The State of Idaho approved \$61 million in revenue from the Idaho Endowment Lands fund. According to the Idaho State constitution, a majority of these dollars must go directly to fund public schools. This legislation would redirect the \$61 million to a dedicated school facility fund.

DISCUSSION:

Senator Carlson asked where the money received from the Idaho Endowment Lands fund was going now. **Chairman Lent** replied, into the General Education fund as discretionary funds. **Senator Den Hartog** asked if this was a binding allocation fund and were there assurances the funds would be spent on facilities. **Chairman Lent** explained the funds may be used to pay for existing bonds spent for remolded or replaced facilities and held in savings by the beneficiary. The intent was to be flexible, but intended to be used for facilities.

Senator Lenney inquired if it would pay down current bond obligations or be held in savings. **Chairman Lent** noted the dollars could be used for bond tax reduction, with the primary objective to relieve local patron's financial burden for school facilities.

Senator Herndon questioned if the current funds of \$61 million were used for general education expenses, how they were used by the districts, and how the monies were dispensed. Deputy Division Manager, Budget and Policy Analysis, LSO, **Jared Tatro** stated the current \$61 million were entwined with public school income funds within the Operations Division bill for public schools. Those dollars were treated just the same as General Fund dollars. The monies were to be used for transportation, classified salaries, health insurance, and operations. How the monies would be backfilled would ultimately come from the Joint Finance-Appropriations Committee (JFAC). This legislation did not cut public school dollars, but shifted dollars.

Senator Herndon asked how did the distribution compare with the normal distribution. **Mr. Tatro** explained that normal distribution of dollars were distributed on a support unit basis or a classroom basis by the Operations Division. **Senator Herndon** queried about bond repayment, without allowing the district to go further into debt. **Mr. Tatro** noted this bill may or may not promote either scenarios. The idea was to provide a stabilized fund, not to defer facility needs and possibly see a decline in bonds. **Senator Herndon** questioned if discretionary funds could be utilized for facilities. **Mr. Tatro** replied that discretionary funds could be used for any purpose.

Senator Ward-Engelking asked if a district offered a bond, would 67 percent of voter approval be necessary to pass a bond. **Chairman Lent** stated nothing in the bill had changed requirements on bonds or levies. **Senator Ward-Engelking** questioned if the bill was beneficial to rural schools. **Chairman Lent** said the bill was designed to provide more protection for smaller districts and bring more participation from the State and less reliance on the local tax base.

Senator Carlson inquired if the formula was on the mark for smaller districts and if the dollars were distributed annually. **Chairman Lent** stated an annual payment would grow as distribution from the Idaho Endowment Lands fund grew.

Senator Herndon questioned was money for facilities being taken out of the Idaho Endowment Lands fund, versus drafting legislation for school facilities. **Chairman Lent** replied the funds were originally intended for use by public schools.

Senator Nichols stated a majority of districts had rainy day fund balances not being utilized. A new system was being created with guaranteed payments without voter approval. **Chairman Lent** noted that large districts had the advantage financially, but economies of scale played a role, along with being fiscally responsible.

Senator Lenney inquired about the 2006 Supreme Court decision and why legislation was not implemented during that time frame. **Chairman Lent** noted in 2006 a bond levy equalization was implemented.

Senator Ward-Engelking noted that the Supreme Court made the decision, which required implementation by the Legislature, but a recession was underway.

Vice Chairman Toews inquired if the legislation, along with the formulas, were recommended from the interim committee. **Chairman Lent** stated general consensus was obtained from the interim committee.

TESTIMONY: **Anna Miller**, Director, Center for American Education, Idaho Freedom Foundation, testified against **S 1103** and cited increased school spending would not assist rural districts and the districts were not encouraged to spend current funds.

DISCUSSION: A discussion ensued between Senator Lenney and Ms. Miller that several districts had more money in a rainy day fund than the total budget. **Ms. Miller** provided examples in which funding was 147.2 percent of the district budget, versus a rural district with reserves equaled to 7.4 percent of its budget.

Senator Ward-Engelking queried if those monies were bond or levy dollars, with a designated purpose, not discretionary funds. **Ms. Miller** noted that she was addressing rainy day reserve funds only. Idaho Code did not allow for those funds to be utilized for facility improvements.

TESTIMONY: **Misty Swanson**, Executive Director, Idaho School Boards Association, testified in support of **S 1103** and cited school facilities was a top priority. She stated the bill ensured the State was making meaningful investments, and provided a solution for aging facilities.

DISCUSSION: A discussion ensued between the Committee members and Ms. Swanson about bond funds and whether they went into reserve funds. **Ms. Swanson** stated they did. **Senator Semmelroth** asked Ms. Swanson if another word for reserve funds was rainy day funds. **Ms. Swanson** noted they were not. **Senator Nichols** asked for clarification if school boards could allocate or vote to allocate a portion of rainy day funds for building maintenance. **Quinn Perry**, Deputy Director, Idaho School Boards Association, explained that bonds could only be utilized for paying down the bond. Rainy day funds were operational reserve funds, determined by each district.

Senator Nichols asked if reserve funds did not include bond funds, could school boards allocate those funds for building maintenance. **Ms. Perry** replied that schools were managing deferred maintenance of facilities with reserve funds or discretionary funds.

Chairman Lent provided a brief overview of his 12 years of experience serving on the Idaho Falls School Board and the importance of maintaining a solvent organization. He encouraged the Committee to support this legislation and fulfill our constitutional responsibility.

DISCUSSION: **Senator Den Hartog** put forth a request for consideration to the bill's verbiage, allowing for more binding allocation language, but still providing the districts with flexibility. She queried if Chairman Lent would support a change. **Chairman Lent** accepted the opportunity to incorporate a change. **Senator Den Hartog** acknowledged the work the interim committee had done, along with accepting bigger, different ways in supporting State versus local balance. **Chairman Lent** concurred, and noted that time had come in the State to show that the Legislature acted in a timely manner in regards to school facilities.

Vice Chairman Toews brought forth his concerns about the rainy day funds. **Chairman Lent** stated some districts had a healthy rainy day fund, which was the exception. This could be handled on a case-by-case basis.

Senator Carlson voiced a concern that school districts, were not paying their bond obligations and kept the monies in savings. She suggested a need for stronger language to ensure this would not occur. **Chairman Lent** addressed verbiage to be added, including monies spent first to pay down bonds.

Senator Ward-Engelking suggested Mr. Tatro address the Committee on cash balance concerns. **Mr. Tatro** explained cash balances in an account reflected what monies were available on a certain date. It did not reflect obligations against those monies. Funds were earmarked and must be used for a specified purpose. He advised when the Committee looked at cash for specific needs, demographics and pending district requirements should be considered.

Vice Chairman Toews queried if a cash balance could be equated to a rainy day fund. **Mr. Tatro** agreed rainy day funds were monies earmarked for debt service.

Senator Herndon asked if the \$61 million was not General Fund money, but dedicated funds. **Mr. Tatro** replied the money was classified as a dedicated fund, but spent as General Funds. **Senator Herndon** queried if monies for school buildings were currently being used to support building facilities for public schools. **Mr. Tatro** stated that public schools were appropriated approximately \$67 million for facilities and charter schools \$13 million. Funds were matched by lottery and

bond equalization, which were all statutorily distributed.

Senator Ward-Engelking queried if this legislation helped rural school districts. **Mr. Dale Lane**, Idaho Rural Schools Association, stated rural school districts had a dire need for facilities funds. Rural schools did not have the market value to pass levies or bonds.

Senator Lenney requested Mr. Birnbaum address the rainy day fund and reserve fund. **Mr. Birnbaum**, Idaho Freedom Foundation, stated districts had needed not to carry a large rainy day fund. When monies decreased, a huge influx of federal dollars were allotted. No fund had to be protected from a zero balance, it was supported by the education stabilization fund, along with a budget stabilization fund. The rainy day fund could be tapped for maintenance. **Senator Nichols** questioned if COVID-19 monies were being utilized. **Mr. Birnbaum** replied that there were potentially \$250 million unencumbered COVID-19 monies that could potentially be used for facilities.

Senator Herndon asked Chairman Lent if he could address the bill's accountability mechanism to ensure districts were using funds for stated purposes. **Chairman Lent** noted there may be a facilities report forthcoming.

MOTION: **Senator Den Hartog** moved to send **S 1103** to the 14th Order of Business for possible amendment. **Senator Ward-Engelking** seconded the motion.

SUBSTITUTE MOTION: **Senator Herndon** moved to hold **S 1103** in Committee. **Senator Nichols** seconded the motion.

DISCUSSION: **Senator Herndon** proposed that the \$80 million approved in the special session for in-demand careers be redirected toward building facilities for public schools. He suggested this bill be held in Committee to investigate other solutions.

Senator Den Hartog asked if it was the intent to hold the bill in Committee and bring the bill back for additional consideration based on other options in this session. **Senator Herndon** proposed the bill be held in Committee for further investigation. **Senator Den Hartog** suggested a modification, if the Committee held the bill, it would be subject to the Call of the Chair. **Senator Herndon** explained due to amendments, it was suggested the bill be held in Committee, not subject to the Call of the Chair.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Chairman Lent** called for a Roll Call vote on the substitute motion to hold **S 1103** in Committee. **Senators Nichols, Carlson, Herndon, Lenney** and, **Vice Chairman Toews** voted aye. **Senators Den Hartog, Ward-Engelking, Semmelroth** and, **Chairman Lent** voted nay. The motion carried.

ADJOURNED: There being no further business at this time, **Chairman Lent** adjourned the meeting at 4:32 p.m.

Senator Lent
Chair

Linette Grantham
Secretary

Ann Yanak
Assistant Secretary