

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Thursday, March 14, 2024

TIME: 8:15 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Anthon, Harris, Toews, Wintrow, and Ruchti

ABSENT/ EXCUSED: Senator Lee

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 Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:15 a.m.

WELCOME: **Chairman Guthrie** welcomed all to the Committee meeting.

MINUTES APPROVAL: **Senator Harris** moved to approve the Minutes of March 1, 2024. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

H 691 **STATE GOVERNMENT - Amends and adds to existing law to provide that notice of intent prior to an agreement taking effect shall be required in certain instances. Representative Gannon** stated that **H 691** required a 30 day notice to commit the State to \$25 million or more in expenditures, or to commit the State to property values of \$25 million or more. He remarked that **H 691** was approved by the treasurer's office, the Department of Administration, the comptroller's office, the State board, and legislative committees. He remarked that **H 691** allowed affected groups 30 days to give input to large expenditures. He stated that requests for proposals, emergency expenditures, legal settlements, Idaho Transportation Department projects (which complied with their bid process), and expenditures authorized by the Legislature were exempt. He stated that **H 691** was not retroactive.

A letter in support of **H 691** from the Idaho Department of Administration and the League of Women Voters appears in Attachment 1.

DISCUSSION: **Senator Winder** asked if notice would be required if a nondisclosure agreement (NDA) was in place. **Representative Gannon** replied that the notice form was general, and details were not required. **Senator Winder** inquired who the notice would be given to. **Representative Gannon** replied the notice would be given to all legislators and the media by e-mail.

Representative Allgood remarked that the process of giving notice did not put a burden on the agencies. He stated that notice was given to the correspondence list contained in the legislative directory and the county where the project took place.

Senator Winder asked if a public entity entered into an NDA and it was not yet finalized, did **H 691** protect them during negotiation, or was notice required after negotiation. **Representative Allgood** replied that most of those projects had legislative approval prior to the agreements. He remarked that a notice would be published at some point during the process, and no project was exempted unless directly referenced in **H 691**.

Senator Winder asked if **H 691** targeted the University of Idaho/University of Phoenix deal. **Representative Gannon** replied that it did not. **Senator Winder** stated that Representative Allgood implied that the project must be pre-approved to enter into the NDA. **Senator Gannon** replied that it did not. He stated that the notice was filed only once a decision was made. He remarked that it did not impact negotiations, only decisions.

MOTION: **Senator Ruchti** moved to send **H 691** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

H 665 **PUBLIC MONEY INVESTMENTS - Adds to existing law to require the State Treasurer to compile and prepare a report of state moneys invested in a foreign adversary.** **Representative Ehlers** stated that taxpayer dollars or State investment funds should not be used to fund foreign adversaries. He remarked that **H 665** was the first step in this effort, in that it required a report to be provided to the State treasurer's office by June 30, 2024. He remarked that by January 1, 2024, this report would be presented to the Legislature. He stated that exports and trade were not affected.

DISCUSSION: **Senator Winder** asked if the treasurer's office supported **H 665**. **Representative Ehlers** responded that the treasurer's office supported **H 665**.

MOTION: **Senator Harris** moved to send **H 665** to the floor with a **do pass** recommendation. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

H 646 **COUNTIES - Amends existing law to revise the boundaries of Benewah County, Bonner County, Clearwater County, Kootenai County, Latah County, and Shoshone County.** **Representative McCann** stated that **H 646** fixed the north-south main boundary line that affected six counties. She remarked that the boundary lines were set in 1863, when Idaho was a territory. She stated that surveys were all different. She remarked that the Latah county surveyor collaborated for seven years with all six counties and established a new boundary line. She stated that the counties had signed letters of support to establish the boundaries. She remarked that **H 646** was critical so that the counties could pursue further development. She noted that the fiscal note of \$60,000 funded the surveyors that established the boundary lines.

DISCUSSION: **Senator Harris** asked if any state lines were impacted. **Representative McCann** replied that no state lines were impacted.

Senator Winder asked if surveyors had approved the boundaries in **H 646**. **Representative McCann** replied that they had.

MOTION: **Senator Harris** moved to send **H 646** to the floor with a **do pass** recommendation. **Senator Wintrow** seconded the motion. The motion carried by **voice vote**.

H 630 **COUNTIES - Amends existing law to revise the boundaries of Cassia County and Minidoka County.** **Representative Pickett** stated that **H 630** related to the boundary of Cassia and Minidoka counties. He remarked that two definitions existed for the boundary, with some parcels or islands located in the Snake River belonging to neither county. He remarked that **H 630** made a uniform definition of the boundary and had the approval of both county commissions.

MOTION: **Senator Anthon** moved to send **H 630** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

H 645 **SCHOOL DISTRICT BOARDS OF TRUSTEES - Amends existing law to revise provisions regarding school board recall elections, vacancies, and quorums.** **Representative Sauter** stated that **H 645** was a school board operations bill. He remarked that in his district, there were issues with the superintendant, and two school board members were recalled. He stated that after two school board members were recalled, the board did not comprise a quorum and could not conduct business. He remarked that under **H 645**, school board transactions still occurred when the majority of the school board members were present. He remarked that the vacancy started when the county clerks certified the election, and voting was suspended from the day that the election was called up to 10 days. He remarked that the recalled members could not make high level decisions within that window. He remarked that he had worked with school board associations, school superintendent associations, the Department of Education, and the Secretary of State.

DISCUSSION: **Senator Anthon** asked for clarification that if someone was subject to a recall election and the election was not yet certified, then the board member would not vote on financial obligations or contractual obligations within the 10 day window. **Representative Sauter** replied that was the case. **Senator Anthon** asked him to clarify that if someone won a recall election but the results had not been certified yet, then they did not participate in financial decisions. **Representative Sauter** replied that yes, that person was suspended from high level decisions.

Senator Harris asked if other elected officials operated this way. **Representative Sauter** replied no. He remarked that **H 645** only focused on school boards.

Senator Toews stated that it made sense that a judge would make this kind of decision on a case-by-case basis, but **H 645** took away a duly elected official's ability to do their job. **Representative Sauter** replied that there was a one to ten day period. He stated that there was plenty of time for duly elected officials to make decisions. He remarked that **H 645** targeted a very specific problem. **Senator Toews** asked if the recalled member's duties were suspended whether or not they were recalled. **Representative Sauter** replied that there was a significant number of signatures to trigger a recall election. He remarked that the cooling off period was only 7 to 10 days, and the board was still fully functional and only future decisions were impacted.

Chairman Guthrie asked if the recalled member could still be present to establish a quorum while the other board members made the big decisions. **Representative Sauter** replied that **H 645** only prevented the recalled member from participating in high level votes.

Senator Anthon remarked that the Senate passed **S 1239**, relating to quorums, as amended, and asked if there was interplay between **S 1239** and **H 645**. **Representative Sauter** replied that **H 645** was more comprehensive. He stated that there was more than just a quorum issue that needed to be addressed. **Senator Anthon** asked why **H 645** did not address other boards. **Representative Sauter** replied that **H 645** only focused on school boards.

TESTIMONY: **Brooke Ramsey**, West Bonner County School District, testified in support of **H 645**. She focused on the portion of **H 645** that prohibited recalled board members from engaging in new contractual or financial obligations from the day of the election until certification. She remarked that recalled board members attempted actions that resulted in financial hardship for the district, and a restraining order was necessary. She stated that **H 645** only paused high level decisions for 7 to 10 days. She stated that **H 645** was beneficial for small communities.

Written testimony appears in Attachment 2.

DISCUSSION: **Senator Wintrow** asked if this had happened before and how it was dealt with. **Brooke Ramsey** stated that it had not happened. She remarked that the board reached out to State agencies, and all had difficulty interpreting the code. She stated that the board had to get a restraining order. She remarked that the board could take no action for three months, and the situation was very chaotic.

Representative Sauter stated that **H 645** was an important bill for his district.

MOTION: **Senator Winder** moved to send **H 645** to the floor with a **do pass** recommendation. **Senator Ruchti** seconded the motion.

SUBSTITUTE MOTION: **Senator Toews** moved to send **H 645** to the **14th Order of Business** for possible amendment. **Senator Harris** seconded the motion.

DISCUSSION: **Senator Toews** remarked that he was concerned with unintended consequences. He recommended that **H 645** be more closely examined so that duly elected officials did not have their powers removed. He stated that this could result in a switch in the majority position.

Senator Winder remarked that **H 645** provided a pause on major issues. He stated this was a targeted effort, and he supported the original motion.

Senator Toews stated that the pause should apply to the entire board, and not just to the person recalled. He remarked that gamesmanship could occur at the local level. He recommended an amendment delaying big decisions by all board members.

ROLL CALL VOTE: **Chairman Guthrie** called for a roll call vote on the substitute motion. **Vice Chairman Bernt and Senators Anthon, Harris, and Toews** voted aye. **Chairman Guthrie and Senators Winder, Wintrow, and Ruchti** voted nay. The motion failed.

ROLL CALL VOTE: **Chairman Guthrie** called for a roll call vote on the original motion. **Chairman Guthrie, Vice Chairman Bernt, and Senators Winder, Harris, Wintrow, and Ruchti** voted aye. **Senators Anthon and Toews** voted nay. The motion carried.

H 666 **ABORTION - Amends existing law to prohibit abortion providers from furnishing materials of instruction relating to sex education curricula.** **Representative Skaug** stated that **H 666** prohibited any individual or organization that was a provider of abortion from furnishing any materials or instruction relating to sex education marketing materials. He stated that legislation enacted in 2021 prohibited the use of public tax dollars for public schools and universities for the promotion of abortion. He remarked that **H 666** closed a loophole in that law and prohibited an individual or organization from providing materials or providing instruction in schools for free. **Representative Skaug** yielded to David Ripley.

David Ripley, Executive Director, Idaho Chooses Life, remarked that **H 666**

protected children and prevented individuals or organizations who promoted abortion from providing sex education in schools. He remarked that there were organizations that sought to move a social and sexual agenda targeted towards children disguised as healthcare services. He remarked that the most important piece of **H 666** protected organizations from enticing children into relationships with organizations with radical agendas. He remarked that **H 666** did not prohibit viewpoints from being presented in a public school setting, nor did it prevent doctors who had provided an abortion from presenting.

DISCUSSION: **Senator Ruchti** asked where the exemption was that permitted a doctor who had performed an abortion to present in a public school classroom. **Mr. Ripley** replied that a doctor who performed an abortion to save a life did not become an abortion provider. **Senator Ruchti** stated that he did not see that language in **H 666**. He remarked that he did not see those exemptions. **Mr. Ripley** replied that **H 666** differentiated between organizations that provided abortions as their central service and doctors that provided an abortion to save a life. **Senator Ruchti** noted that language was not in **H 666**.

TESTIMONY: **Mistie DelliCarpini-Tollman**, State Director, Planned Parenthood Alliance Advocates Idaho, stated that she opposed **H 666**. She remarked that **H 666** limited young people's access to comprehensive sex education. She stated that **H 666** narrowed the pool of sexual health experts and educators in Idaho, making it challenging for youth to access information on sexual health. She stated that only 20 percent of Idaho schools taught the Centers For Disease Control recommended topics in their sex education curriculum. She remarked that Idaho should make it easier to access sexual education, not harder.

DISCUSSION: **Senator Wintrow** thanked Ms. Tollman for testifying.

MOTION: **Senator Winder** moved to send **H 666** to the floor with a **do pass** recommendation. **Senator Toews** seconded the motion. The motion carried by **voice vote**. **Senators Wintrow and Ruchti** asked to be recorded as voting nay.

H 668 **NO PUBLIC FUNDS FOR GENDER TRANSITION - Adds to existing law to prohibit the use of public funds for gender transition procedures.** **Representative Skaug** stated **H 668** provided taxpayer protection. He stated that **H 668** backed up the Governor's plan to protect Medicaid funds.

Representative Young stated that **H 668** was a taxpayer bill. She remarked that the question was whether taxpayer funds should be used for highly controversial, medically irreversible, life-changing treatments. She remarked that **H 668** ensured that taxpayer dollars were not used to provide medical treatment or surgeries for the purpose of changing the appearance of a person's sex in a way that was not consistent with their biological sex, and such expenditures were not tax deductible. She remarked that **H 668** applied to minors and adults. She remarked that **H 668** contained exemptions for the funding of medically necessary uses of these drugs and procedures.

Attachment 3 and Attachment 4 provide information and research in opposition to gender affirming surgeries.

DISCUSSION:

Senator Wintrow asked if prison treatments were covered under the Eighth Amendment, and not Medicaid. **Representative Young** replied that she was not sure. **Senator Wintrow** stated that the Affordable Care Act did not allow discrimination of medical treatment based on gender, sexual orientation, and gender identity, and people in Idaho were getting gender affirming care. She asked what the implications were in the court system. **Representative Young** replied that the courts' decisions could not be anticipated. She remarked that if a person's class was defined by the medical treatments that they sought, then it would be unconstitutional to prevent any treatments.

Senator Wintrow remarked that medical intervention was defined broadly. She stated that Medicare covered care for erectile dysfunction, and this was gender-affirming care. **Representative Young** stated that **H 668** addressed an individual's perception of their sex in a way that was not consistent with their biological sex.

Senator Ruchti stated that if **H 668** was a taxpayer bill, was there an identification of the potential savings of **H 668** offset by the costs of defending **H 668** in litigation. **Representative Young** replied that it was difficult to answer in a conclusive way. She remarked that the State of California had spent millions of dollars providing gender affirming care.

TESTIMONY:

The following people testified in opposition to **H 668**: **Nikson Mathews, Isaac Craghtten, Lily Pannkuk, Crystal Ivie, Howard Belodoff, Saga Christian, Julianne Donnelly Tzul (American Civil Liberties Union of Idaho), Merrick Collins, Nissa Nagel, Mistie Tollman (Planned Parenthood Alliance Advocates), Marvin Alviso, and Talia Stukie**. The general themes were that treatments were medically necessary for mental health, and this was backed by medical organizations and research. There were inconsistencies in the language of **H 668**. Idaho currently provided gender affirming care. Medications used for gender affirming care were used in other treatments, yet **H 668** blocked them for certain classes of people. Sex and gender were not binary. Many people and health systems were negatively impacted by **H 668**. The Legislature should listen to doctors involved in gender affirming care. **H 668** set a precedent to block treatment for other conditions such as obesity and aging. Doctors should have the right to make these decisions with their patients. Gender affirming care was life-saving, and **H 668** was discriminatory.

A letter in opposition to **H 668** from the American Civil Liberties Union of Idaho appears in Attachment 5.

A handout in opposition to **H 668** appears in attachment 6.

DISCUSSION:

Senator Wintrow asked Nikson Mathews how "medically necessary" was defined. **Nikson Mathews** replied that many organizations defined gender affirming care as medically necessary, and that the treatments saved lives.

Senator Wintrow clarified that certain medications were used by people seeking other treatments, but those same medications were denied by **H 668**.

Senator Wintrow asked Howard Belodoff about the legal implications of the Supreme Court case addressing gender affirming care. **Howard Belodoff** replied that it would be challenged. **Senator Anthon** asked if the legal argument changed if the treatments were not medically necessary. **Howard Belodoff** replied yes. He remarked that the underlying condition was gender dysphoria.

Senator Wintrow asked Julianne Donnelly Tzul and Dr. Alviso how medical providers were impacted by **H 668**. **Julianne Donnelly Tzul and Dr. Alviso** replied that entities that received funding from public sources would not provide care.

DISCUSSION: **Representative Young** stated that **H 668** was about the responsibility to oversee taxpayer funds. She remarked that the treatments were not life-saving and not necessary; rather, they were harmful. She referenced Attachments 3 and 4, that detailed the nature of the treatments. She remarked that **H 668** did not carve out a class, and that individuals that struggled with their sexual identity still had access to the same healthcare everyone else received.

MOTION: **Senator Toews** moved to send **H 668** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

DISCUSSION: **Senator Wintrow** stated she opposed **H 668**, and that Medicaid was a safety net. She remarked that she did believe that **H 668** discriminated against a group of people. She stated that the medical community supported the treatments, and that the treatments prevented suicide. She remarked that gender affirming care was scientific. She remarked that **H 668** affected a vulnerable group of people.

Senator Ruchti stated that **H 668** was not a taxpayer savings bill. He remarked that the cost of litigation outweighed the cost of providing gender affirming care. He stated that in addition, the cost of what happened if someone did not get the gender affirming care was not considered. He stated that health plan carriers based their decisions on data and science, and this was a dangerous thing for a legislative body to do.

Chairman Guthrie stated that he was impacted by the testimony. He remarked that he was concerned about the costs of litigation and wanted to ensure State employees received the care that they needed.

ROLL CALL VOTE: **Senator Toews** requested a roll call vote on the motion. **Vice Chairman Bernt, and Senators Winder, Anthon, Harris, and Toews** voted aye. **Chairman Guthrie and Senators Wintrow and Ruchti** voted nay. The motion carried.

ADJOURNED: There being no further business at this time, Chairman Guthrie adjourned the meeting at 10:24 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary