

MINUTES
SENATE EDUCATION COMMITTEE

DATE: Wednesday, March 20, 2019

TIME: 2:00 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Mortimer, Vice Chairman Thayn, Senators Winder, Den Hartog, Crabtree, Woodward, Lent, Mathias(Buckner-Webb), and Ward-Engelking

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.

CONVENED: **Chairman Mortimer** called the Education Committee (Committee) to order at 2:01 p.m.

H 120 **Representative Ehardt** presented **H 120**, Relating to Sex Education; Revise Provisions Regarding Sex Education. She stated **H 120** is addressing parental rights regarding their child's education and emphasized this bill is about consent, not content. She explained the proposed legislation will change the sex education instruction's current "opt-out" option to an "opt-in" option and reported neighboring states and a Treasure Valley school district that has already changed to an "opt-in" alternative.

Representative Ehardt referred to the various Idaho statutes that address parental rights and reported that a specific sex education course, "Reducing the Risk," was taught in some school districts. She said the material discussed was beyond the scope of the State's approved curriculum.

DISCUSSION: **Vice Chairman Thayn** asked if this proposed legislation were to pass, did she expect the State Board of Education (SBE) to write the rules, like Utah adopted. **Representative Ehardt** replied what Utah is doing seems to be successful.

Chairman Mortimer said the proposed legislation uses the term "sexuality" three times, yet there is nothing defining the term; **H 120** is about sex education and the ability to "opt-in" rather than to "opt-out" a student. He asked if there is a specific reason "sexuality" has been used in the proposed legislation. **Representative Ehardt** replied in the affirmative. She said sexuality deals with sex education and explained the instances where erotic literature is starting to appear in the literature classes.

Senator Mathias asked if he can't "opt-in" his child into this class unless he has read the curriculum. **Representative Ehardt** replied the local education agency (LEA) would set the criteria for the "opt-in" alternative.

Senator Mathias asked if there is the obligation for separate lessons for those students who were not "opted-in" to the sex education class. **Representative Ehardt** replied the LEAs would have a plan in place.

Senator Mathias stated the proposed legislation usage of "shall" adds burden to the LEAs. He would like to see that revised to "may."

TESTIMONY: **Quinn Perry**, Policy and Government Affairs Director, Idaho School Boards Association (ISBA), spoke in opposition to **H 120**. She said there are three objections the ISBA has with the proposed legislation: 1.) Conflict with current law; 2.) Practice, local governance; and 3.) Equity. She stated "sexuality" is not defined in Idaho Code, therefore, students would have to be "opted-in" into a variety of other courses to meet the State's graduation requirements. She explained the burden for LEAs to meet Idaho's Code to distribute information about bullying. She said **H 120** puts the most at-risk students in greater risk due to lack of parental involvement. She stated the LEAs are cognizant of the sensitive nature surrounding sex education (Attachment 1).

DISCUSSION: **Senator Den Hartog** asked if this proposed legislation arose due to another State agency circumventing the proposed curriculum in those 17 school districts. **Ms. Perry** replied ISBA spoke with some of those districts and they assured her that they had followed the current process and protocol.

TESTIMONY: **John Paulton**, President, Family Policy Alliance of Idaho, spoke in support of **H 120**. He stated Idaho law states it clearly through code, that parents have the right to direct the upbringing of their children. It is important to protect that right, especially when human reproduction and healthy relationships are being taught. He stated this is not about content, it is about consent.

Donna Yule, President, Southwest Chapter of the National Organization of Women, spoke in opposition to **H 120**. She stated currently parents who don't want their children to have sex education can "opt-out" of the program. She suggested there is no need to change the current legislation (Attachment 2).

Brandon Durst, Boise, Idaho, spoke in support of **H 120**. He explained the "opt-in" option is a benefit for joint parenting and it allows both parents to be part of the decision making process. He said working with the schools' information systems could make the "opt-in" process simpler.

Reverend Sara LaWall, Pastor, Boise Unitarian Universalist Fellowship, Boise, spoke in opposition to **H 120**. She stated she is the primary leader of her child's sex education, yet she understands that she might not be the most effective. She said the information from the public schools is age appropriate and comes from a trusted source. The current system works well.

Joann Wortman, Boise, Idaho, spoke in support of **H 120**. She stated this is about parental choice.

Lori Gash, Health Coordinator, West Ada School District spoke in opposition to **H 120**. She cited the statutes that were used in the presentation also address school boards responsibilities. She explained the logical issues for schools when students are "opted-out" of certain curriculum. She expressed her concern for the most vulnerable and at risk students who would not be receiving the additional education. **Ms. Gash** noted that when bullying and abuse subjects are taught, there is an increase of self-reporting. She stated the West Ada district is sensitive to this subject and parents do have the right to "opt-out" (Attachment 3).

Kari Overall, President, Idaho Education Association (IEA), spoke in opposition to **H 120**. She said the IEA believes in age appropriate sex education which should include parental orientation. She explained the commitment educators make to teach the standards with fidelity and adhering to their professional standards and code of ethics. She said parents have the right to opt out their children. The IEA believes the current statutes that are in place are sufficient (Attachment 4).

Reverend Marci Glass, Pastor, Southminster Presbyterian Church, spoke in opposition to **H 120**. She told her personal story of what happens when sex education is not accessible. She said sex education matters because some children don't hear it best from their parents.

Paul Rolig, Boise, Idaho, spoke in opposition to **H 120**. He said better sex education programs result in healthier attitudes and fewer unplanned pregnancies. He noted the word "sexuality" in the proposed legislation is a cause for concern. This undefined word may encroach on other education subjects.

Representative Ehardt stood for questions from the Committee.

DISCUSSION: **Vice Chairman Thayn** asked if "opting-in" to the sex education courses could be regulated by LEAs. **Representative Ehardt** replied school boards are not aware of what is going on in their schools. "Opting-in" makes parents aware of what is going on their student's classroom.

Senator Woodward said currently school districts have the option to either have an "opt-out" or an "opt-in" choices. He asked if the intent of the proposed legislation is that districts can only have "opt-in" for students to learn sex education. **Representative Ehardt** replied in the affirmative. She said the school districts have succinct direction and they can choose the material they would like to have taught.

Senator Woodward said the shift would state that school districts would have no option except to have an "opt-in" process. **Representative Ehardt** replied in the affirmative.

Senator Ward-Engelking said there are probably other ways to address Representative Ehardt's concerns. She said the fiscal note is incorrect and making a mandatory "opt-in" is unreasonable.

MOTION: **Senator Ward-Engelking** moved to hold **H 120** in Committee. **Senator Mathais** seconded the motion.

DISCUSSION: **Vice Chairman Thayn** said he tends to support parents' rights and for many reasons "opt-in" could be a good direction for school districts. He said the one concern he has regards the definition for sexuality. The looseness could exclude anatomy and physiology, biology, and some literature courses from being taught.

Senator Den Hartog said she has struggled with the proposed legislation. She stated she is a strong supporter of parental rights and believes an "opt-in" could be beneficial. She said the problems arose in teaching because another State agency circumvented current statutes and that needs to be addressed. **Senator Den Hartog** stated that agency bears some responsibility and she has grave concerns regarding the process that was done to get those particular materials into the classroom.

VOICE VOTE: The motion to hold **H 120** in Committee passed by **voice vote**, with **Vice Chairman Thayn** requesting that he be recorded as voting nay.

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

Senator Dean M. Mortimer
Chair

LeAnn Mohr
Secretary