

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Tuesday, March 26, 2024

TIME: 8:00 A.M.

PLACE: Room WW55

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

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 Guthrie** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:03 a.m.

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

NOTE: **Chairman Guthrie** congratulated Senator Lee on obtaining her PhD degree.

RS 31736 **Relating to Education Spending. Senator Anthon** stated **RS 31736** was a trailer bill to **H 521** and addressed the five-day/four-day school week. **RS 31736** required a 10 year strategic plan and an attestation regarding compliance with dignity and non-discrimination in public education. In addition, appointments to the State board were subject to the advice and consent of the Senate.

DISCUSSION: **Senator Winder** remarked that **RS 31736** was a good approach based upon what could be accomplished in the session, and he urged the Committee's support.

MOTION: **Senator Winder** moved to send **RS 31736** to print. **Senator Bernt** seconded the motion. The motion carried by **voice vote**.

RS 31735 **Relating to a Concurrent Resolution Authorizing a Study of Diversity, Equity, and Inclusion, and Social Justice Ideology in Idaho's Public Post-Secondary Institutions. Senator Winder** stated there had been discussions regarding Diversity, Equity, and Inclusion (DEI), and its impacts on higher education institutions. **RS 31735** allowed the Legislative Council to appoint an interim committee of House members, Senate members, and non-Legislative members. The fiscal note identified \$10,000 to cover related travel expenses for members of the interim committee.

MOTION: **Senator Anthon** moved to send **RS 31735** to print. **Senator Winder** seconded the motion.

DISCUSSION: **Senator Wintrow** remarked that the interim committee would discover the positive impacts of creating inclusive environments on college campuses. She commented that the tone and tenor had a negative slant, the language was not neutral, and she would not support **RS 31735**.

Senator Winder stated that the purpose of **RS 31735** was to investigate the impacts, both positive and negative.

Senator Wintrow stated the language was negative and did not indicate benefits of DEI.

VOTE ON THE MOTION: **Chairman Guthrie** called for a vote on the motion to send **RS 31735** to print. The motion carried by **voice vote**. **Senator Wintrow** asked to be recorded as voting nay.

NOTE: **Chairman Guthrie** stated that the agenda was modified to accommodate the schedules of the presenters, and **S 1443** would be presented before **S 1450**.

S 1443 **ENDOWMENT TRUST LANDS - Adds to Existing law to clarify the duties of the state board of land commissioners in the lease of state endowment trust lands, to require bonds under certain circumstances, and to provide for rulemaking.** **Senator Burtenshaw** stated that **S 1443** addressed the protection of State endowment lands. He remarked that the purpose of the State land commissioners was to provide maximum, long-term financial return. Leases and terms must be sustainable and manageable. Some land use types required a bond to ensure reclamation and restoration, and rules were promulgated to fit the aspects of the land.

Senator Burtenshaw provided the Committee with handouts that addressed **S 1443**. These are contained in Attachment 2. **Senator Burtenshaw** pointed out a land lease permit that generated \$696,000, of which only \$52,000 was paid to the State. He presented pictures detailing the damage done to the endowment lands. He stated that the State held the liability for this damage. The camping organizations were in direct competition with the hotels and motels that operated in the area. He remarked that the most egregious abuser of property and the community was the State of Idaho. **S 1443** required that contracts were negotiated, rules were promulgated, and the lands were taken back and managed so that the corpus was not destroyed.

TESTIMONY: **Jonathan Oppenheimer**, Idaho Conservation League, testified in support of **S 1443**. He appreciated that **S 1443** recognized that endowment lands must maximize returns. He commented on the importance of considering the opportunity and need to restore all State lands, regardless of whether there was a permit, contract, lease, or other form of agreement. Mining and timber sales already required remediation and replanting, and camping should as well.

Written testimony in support of **S 1443** appears in Attachment 1.

DISCUSSION: **Senator Winder commented** that he had received letters from elected officials and adjoining property owners outlining the impact of the influx of people in their communities.

MOTION: **Senator Winder** moved to send **S 1443** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

S 1450 **EDUCATION - Adds to existing law to convert the corporate entity Four Three Education into an independent public body corporate and politic and invest such entity with the power to acquire and manage the University of Phoenix.** **Senator Winder** stated that outside legal opinion was sought regarding the University of Idaho and University of Phoenix affiliation, and the decision was made to move forward with a body politic. He yielded to Caroline Nelson Troy and Kate Haas.

Caroline Nelson Troy, Government Relations, University of Idaho, stated that **S 1450** addressed concerns expressed by Legislators, and she looked forward to a full and robust discussion. She yielded to Kate Haas.

Kate Haas, Kestrel West, represented the University of Phoenix. She remarked that **S 1450** addressed broad themes of governance, transparency, benefits to all

Idahoans, and protection of the State. **S 1450** established 43 Education as an independent body politic and corporate. This was not a state agency. She stated there were eleven members on the board of trustees, which was the governing body that controlled the operations, and that two legislators were on the board, in addition to the presidents of the universities and the board of regents. There would be six independent members. These board members were not considered State employees.

Ms. Haas outlined the powers of the board of 43 Education. They had the power to acquire and operate the University of Phoenix, approve bylaws, and borrow money so that bonding could occur. The board was self supporting financially and could not seek financial support from the State of Idaho. She remarked that **S 1450** allowed the board of regents to take on liability. This included a limit on bond repayments up to \$9.9 million annually, with a cap of \$50 million aggregate. The board was allowed to sign Title 4 documents for the U. S. Board of Education. The State took on no additional liabilities. This was stated on the bonds. Finally, **S 1450** provided for ongoing oversight and annual written and oral reports.

DISCUSSION:

Senator Wintrow asked for the total financial exposure of the University of Phoenix under the borrower defense program. **Ms. Haas** responded that she was not sure. **Senator Wintrow** inquired why a public entity should be created by the State to protect the liabilities incurred from a private institution. **Ms. Haas** responded that all institutions dealt with student loan issues. The University of Phoenix had world class compliance systems. She remarked that every claim was evaluated on an individual basis by both the University of Phoenix and the U.S. Department of Education. **Senator Wintrow** commented on the number of connections to the State appearing in **S 1450**, She asked if there was truly a shield between the State and 43 Education, and if there was liability for the State. **Mr. Haas** replied there was a specific structure for the corporate body politic that established it as a separate legal entity. She remarked there was oversight on the board, and there was indemnity language for the board members. It had been vetted by attorneys, and the State was protected.

Senator Bernt inquired if there were other deals similar to this across the country. **Ms. Haas** replied that there were other for-profit online schools that had affiliated with states and become nonprofits, but no two deals were the same.

Chairman Guthrie stated for years, the rate of high school graduates who attended college was 40 percent. Idaho needed other options for high school seniors, and the University of Idaho and University of Phoenix affiliation provided another option. He remarked that the deal was large, so clearly the universities saw value in this. **Ms. Haas** responded that the University of Phoenix had an older average age, and this was culturally a good fit for Idaho.

Senator Wintrow commented on Boise State University's expanding online education presence. She wondered if one institution could achieve this success within its confines, then why did Idaho need to buy a private institution and complete all the work to protect the State from the institution's current liabilities. She remarked that she was not confident with **H 1450**. **Ms. Haas** responded that the University of Phoenix had world class systems and the affiliation provided the opportunity for all State institutions to benefit.

Senator Lee reminded the Committee that the Idaho Housing Finance Authority was a separate body politic. She asked Ms. Haas to speak to the reasons for doing this. **Ms. Haas** replied the Idaho Housing Finance Authority was a good example based on their risks, bonding, and financial work. She remarked that they were also walled off from the State in a similar way.

Senator Winder spoke to the example of the Idaho Housing and Finance Authority. He remarked they bonded a significant amount of money. **S 1450** provided a sweet spot legally that shielded the State and allowed the entity to move forward in a positive way. It was easier for students to obtain student loans from a public institution than from a for-profit institution. He stated the affiliation was a much broader effort than just serving the students of Idaho and provided a good platform for the future, especially for non-traditional students.

MOTION: **Senator Lee** moved to send **S 1450** to the floor with a **do pass** recommendation. **Senator Bernt** seconded the motion.

DISCUSSION: **Senator Lee** remarked **H 1450** was a good path forward and publicly thanked President Green. The Legislature had been asking higher education institutions to be innovative and disruptive, and to look at the needs of adult students. She stated that **H 1450** benefitted Idaho and was a model for opportunity in Idaho.

Senator Bernt commented that the benefits for the State were enormous, and **S 1450** was innovative. He stressed not to lose sight of taking care of Idaho's students.

Senator Wintrow stated she did not support **S 1450**. She worked in higher education her entire life and valued education. She was concerned that the language in the code felt like a contract, and not State statute. Liability was her biggest concern, and only 400 Idaho students were currently enrolled in the program, compared to 80,000 students total.

Senator Lee remarked there was more than enough need than one institution could fulfill, and **S 1450** served Idaho and made money for the State.

Chairman Guthrie remarked that not everyone wanted a four year degree, and to move the needle, you had to operate outside of your comfort zone.

VOTE ON THE MOTION: **Chairman Guthrie** called for a vote on the motion to send **S 1450** to the floor with a **do pass** recommendation. The motion carried by **voice vote**. **Senator Wintrow** asked to be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 8:58 a.m.

Senator Guthrie
Chair

Peggy Caraway
Secretary