

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Monday, March 09, 2020

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Winder, Vick, Anthon, Souza, Stennett, and Buckner-Webb

**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: **Chairwoman Lodge** called the meeting of the Senate State Affairs Committee (Committee) to order at 8:00 a.m.

H 440 RELATING TO THE COMMISSION ON HUMAN RIGHTS to prohibit discriminating against or granting special treatment to any individual.

Representative Heather Scott, District 1, shared her personal story that inspired her to draft **H 440**. She stated that this bill would prohibit the State of Idaho and its political subdivisions from discriminating against or granting preferential treatment to any individual based on color, ethnicity, national origin, race, and sex in the operation of public employment, public education, and public contracting. She added that the language in the bill would amend the Human Rights Act in Chapter 59 Title 67 of Idaho Code. This would ensure that all applicants would be treated equally, unless there are qualifications based on sex that are reasonably necessary. She continued that **H 440** is similar to legislation in seven other states.

DISCUSSION: **Senator Buckner-Webb** and **Senator Stennett** asked Representative Scott to discuss the impact of the bill on inequality and preferential treatment concerns. **Representative Scott** emphasized that **H 440** would ensure that hiring decisions would be based on qualifications, merits, and competence. She highlighted that the bill deals with immutable traits.

Representative Scott yielded her time to Ward Connerly, founder and president of the American Civil Rights Institute, to further discuss **H 440**. **Mr. Connerly** shared his personal experiences on discrimination. He stated that people had built a society that makes the pursuit of diversity as a legalized form of discrimination. He added advocating for diversity has turned people against each other. He acknowledged that there would be groups of individuals who would view this bill as a way of overturning Affirmative Action, but he encouraged the community to start building a society with a race neutral paradigm. He cited that **H 440** would put in place a framework where people would be viewed as individuals.

TESTIMONY: **Beverly Guenette** and **Janice Camerina** spoke in support of **H 440**. They emphasized that **H 440** would rectify prejudice and discrimination by treating all people without any preconceived notions. They stressed that continuous preferential treatment to any group of people is contrary to the definition of equality and fairness.

Donna Harwood; Kacie Hoch, Idaho Association of LGBTQ; **Elaine Kazakoff; Mistie Tolman**, Idaho Planned Parenthood; **Mat Erpelding**, Boise Metro Chamber of Commerce (BMC); **Kathy Griesmyer**, American Civil Liberties Union; **Lori Burelle**, the southwest Idaho chapter of the National Organization for Women; **Leta Harris Neustaedter; Shakira Sanders**; and **Jennifer Martinez** spoke in opposition of **H 440**. They all agreed that **H 440** would attempt to diminish affirmative action principles. **Mr. Erpelding** emphasized that BCM deems that **H 440** could create barriers to educational opportunities, divide the community, and make employee recruitment more difficult.

Senator Vick called on Mr. Connerly to talk about the effects of **H 440** on affirmative action principles. **Mr. Connerly** articulated that all cities and counties have duties to look into its practices, and must guarantee that they are treating all people equally. He quoted one of President Ronald Reagan's speeches about equality: "We are all equal in the eyes of God but we must be equal in the eyes of each other." He pointed out that the Legislature and government institutions have to provide a framework and understanding that people are treated as individuals, not as representatives of certain groups. Moreover, he said that giving preferential treatment to someone based on color, ethnicity, national origin, race, and sex, could be considered discrimination.

Senator Buckner-Webb called Benjamin Earwicker, Idaho Commission on Human Rights (ICHR) to testify. **Mr. Earwicker** clarified that ICHR does not take any official position on the bill. However, he was present to answer questions regarding human rights and discrimination concerns. In response to Senator Buckner-Webb's questions on affirmative action programs and discrimination in Idaho, **Mr. Earwicker** replied that he was not in a capacity to answer questions concerning affirmative action. He reiterated that ICHR enforces anti-discrimination protection, and does not deal with any affirmative action programs. He acknowledged that there are about 5-10 percent of Idaho's total cases related to discrimination cases with probable cause in recent years.

Representative Scott clarified that **H 440** does not abolish affirmative action. She discussed the possible amendments which address the concerns of the Idaho Transportation Department, and the Idaho Commission on Human Rights regarding the bill's impact on federal funding.

MOTION: **Senator Vick** moved to send **H 440** to the 14th Order of Business for possible amendment. **Senator Harris** seconded the motion. The motion carried by **voice vote**. **Senator Buckner-Webb** and **Senator Stennett** requested they be recorded as voting nay.

H 500 **CONTINUED** – Related to fairness in the Women's Sports Act.

Representative Barbara Ehardt, District 33, reiterated that **H 500** preserves opportunities for girls and women in sports. She recounted the inherent physical differences between women and men. She highlighted that due to these differences women cannot compete on the same level with men.

TESTIMONY: **Maddie Oppenheimer; Astrid Wilde**, Boise State University's student government; **Quinn Perry**, Idaho School Boards Association; **Jen Moore**, Idaho Counseling Association's Council of leaders; and **Donna Harwood** spoke in opposition to **H 500**. They agreed that this bill would have a significant impact on the transgender community.

DISCUSSION: **Senator Souza** addressed the concerns that were brought up by people who are opposing the bill. She indicated her willingness to discuss options for the transgender persons who would like to train and compete on teams in Idaho. On the other hand, she emphasized that she does not condone transgender people playing on women's teams due to fairness and safety issues. She reiterated that **H 500** is a bill where she would like to work with all groups involved.

Senator Buckner-Webb inquired about the impact of the bill on Idaho Code, Title IX. **Senator Souza** assured her that **H 500** supports Title IX.

Senator Hill expressed his complete agreement with the objectives and goals of the legislation. However, he acknowledged that there are unintended consequences. He commended the sponsors of the bill for their willingness to address and respond to the issues surrounding the bill.

MOTION: **Senator Hill** moved to send **H 500** to the 14th Order of Business for possible amendments. **Senator Vick** seconded the motion.

Senator Stennett voiced her concerns on the repercussions and unnecessary trauma that innocent children have to endure to prove their gender. She disagreed with the possible invasive procedures that could be performed on children.

SUBSTITUTE MOTION: **Senator Stennett** moved to hold **H 500** in the Committee. **Senator Buckner-Webb** seconded the motion.

ROLL CALL VOTE: **Chairwoman Lodge** called for a roll call vote on the substitute motion. **Senators Buckner-Webb** and **Stennett** voted aye. **Chairwoman Lodge, Vice Chairman Harris, and, Senators Hill, Anthon, Souza, Vick** ,and **Winder** voted nay. The motion failed.

ROLL CALL VOTE: **Chairwoman Lodge** called for a roll call vote on original motion to send **H 500** to the 14th Order of Business for possible amendments. **Chairwoman Lodge, Vice Chairman Harris, Senators Hill, Anthon, Souza, Vick** and **Winder** voted aye. **Senator Buckner-Webb** and **Senator Stennett** voted nay. The motion carried.

ADJOURNED: There being no further business at this time, **Chairwoman Lodge** adjourned the meeting at 10:08 a.m.

Senator Patti Anne Lodge
Chair

Twyla Melton
Committee Secretary

Rellie Wisdom
Majority Staff Assistant