

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 352

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-138, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE PROHIBITION OF RACIST OR SEXIST CONCEPTS IN PUBLIC SCHOOLS; PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 1, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-138, Idaho Code, and to read as follows:

33-138. RACIST OR SEXIST CONCEPTS IN PUBLIC SCHOOLS PROHIBITED. (1) For purposes of this section:

(a) "Board" means the state board of education.

(b) "Public school" means:

(i) A school district, including a school within a school district;

(ii) A public charter school;

(iii) A state institution of higher education; or

(iv) A community college.

(c) "Racist or sexist concept" means the concept that:

(i) One race or sex is inherently superior to another race or sex;

(ii) An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(iii) An individual should be discriminated against or receive adverse treatment because of the individual's race or sex;

(iv) An individual should receive favorable treatment because of the individual's race or sex;

(v) Individuals or institutions cannot or should not treat individuals without regard to race or sex;

(vi) An individual's moral character is determined by the individual's race or sex;

(vii) An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by members of the same race or sex;

(viii) Meritocracy or merit-based systems are either racist or sexist; or

(ix) The state of Idaho or the United States of America is fundamentally racist or sexist.

(2) (a) No instructor, teacher, or professor at any public school receiving any funding from the state shall teach, advocate, or encourage the adoption of any racist or sexist concept while instructing students.

1 (b) No public school receiving any funding from the state shall host,
2 pay, or provide a venue for a speaker who espouses, advocates, or pro-
3 motes any racist or sexist concept.

4 (c) No public school receiving any funding from the state shall require
5 a student to read, view, or listen to any book, article, video presenta-
6 tion, digital presentation, or other learning material that espouses,
7 advocates, or promotes any racist or sexist concept.

8 (d) No instructor, teacher, or professor at any public school receiving
9 any funding from the state shall penalize or treat adversely any student
10 who refuses to adopt or express any racist or sexist concept.

11 (3) If the state board of education determines that a school district
12 or a public charter school, including an employee of either, has violated
13 subsection (2) of this section, then the board shall notify the school dis-
14 trict or public charter school of the violation. The school district or pub-
15 lic charter school shall have sixty (60) days to comply with subsection (2)
16 of this section. If the school district or public charter school fails to
17 comply with subsection (2) of this section after the sixty (60) day period,
18 then the state board of education may direct the state department of educa-
19 tion to withhold a maximum of ten percent (10%) of the next payment under sec-
20 tion 33-1009 or 33-5208, Idaho Code, to the school district or public charter
21 school, provided that once the state board of education makes a finding that
22 the school district or public charter school is in compliance with subsec-
23 tion (2) of this section, the withheld funds shall be paid.

24 (4) If the state board of education determines that a community college
25 or state institution of higher education, including an employee of either,
26 has violated subsection (2) of this section, then the board shall notify the
27 college or institution of the violation. The community college or state in-
28 stitution of higher education shall have sixty (60) days to comply with sub-
29 section (2) of this section. If the community college or state institution
30 of higher education fails to comply with subsection (2) of this section af-
31 ter the sixty (60) day period, then the state board of education may withhold
32 a maximum of ten percent (10%) of funds appropriated for such college or in-
33 stitution in the fiscal year, provided that once the state board of education
34 makes a finding that the college or institution is in compliance with subsec-
35 tion (2) of this section, the withheld funds shall be paid.

36 (5) A determination or action made under subsection (3) or (4) of this
37 section is a final agency action for purposes of chapter 52, title 67, Idaho
38 Code, and is subject to judicial review.

39 (6) Any taxpayer in this state shall have standing and a private cause
40 of action to file a civil complaint in a district court of this state against
41 any public school claiming that such school or an employee of such school has
42 violated any provision of subsection (2) of this section. If the court finds
43 that the public school or employee has violated any provision of subsection
44 (2) of this section, then the court shall enjoin the public school from re-
45 ceiving funds as described in subsection (3) or (4) of this section, until
46 such time as the school is in compliance with subsection (2) of this section,
47 and shall award costs and attorney's fees to the complainant.

48 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
49 to be severable and if any provision of this act or the application of such
50 provision to any person or circumstance is declared invalid for any reason,

1 such declaration shall not affect the validity of the remaining portions of
2 this act.

3 SECTION 3. An emergency existing therefor, which emergency is hereby
4 declared to exist, this act shall be in full force and effect on and after its
5 passage and approval.