

MINUTES
SENATE EDUCATION COMMITTEE

DATE: Wednesday, February 15, 2023

TIME: 3:00 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Lent, Vice Chairman Toews, Senators Den Hartog, Nichols, Carlson, Herndon, Lenney, Ward-Engelking, and Semmelroth

**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 Lent** called the meeting of the Senate Education Committee (Committee) to order at 3:00 p.m.

**GUBERNATORIAL
APPOINTMENT:** **Public Charter School Commission. Committee Consideration of the Gubernatorial Appointment of Karen Echeverria, of Garden City, Idaho, Public Charter School Commission to serve a term commencing August 1, 2022 and expiring May 12, 2026. Ms. Echeverria** gave a brief overview of her background for the Committee. She said she served as Executive Director of the School Board Association for 13 years, worked for the State Board of Education, and as the State Administrative Rules Coordinator. **Ms. Echeverria** said that, as a Commissioner, she would not be a "approve everything that crosses my desk" Commissioner and that she would ask a lot of questions. To describe what her approach to the role would be, she said she would have three criteria she would use when reviewing charter school petitions: 1) what were the operations like, 2) would this create a solid academic foundation to set students up for long-term success, and 3) would this make the state a good steward of taxpayer dollars.

DISCUSSION: **Senator Den Hartog** asked what the Commission's roles were as it pertained to advocacy and regulation. **Ms. Echeverria** said the Commission had two program managers on staff that were responsible for administrative and regulatory support for 31 charter schools, and that the Commission was in need of more personnel and funding from the Legislature to keep quality of service for those schools at a high level.

Senator Den Hartog asked what the work dynamic was like between commissioners and their staff. **Ms. Echeverria** said she would rely on staff to help the Commission make informed decisions, as they would serve in an advisory role to the commissioners.

Senator Lenney asked if Ms. Echeverria lived in Arizona, as her appointment materials contained an Arizona address. **Ms. Echeverria** said she had a home there that she would spend some winter months, but her permanent address was in Idaho.

S 1038 **Education Savings Accounts (ESA) - Adds to existing law to provide for education savings accounts.**

TESTIMONY:

Those who testified in favor of **S 1038** were: Steven Adams, Matt Edwards, Briana Roberts, Nicole Trakel, Theresa Denham, Sonja Graber, Jonathan Butcher, Rachael Martinez, Allen Gorin, Mark Hand, Melissa Christian, Stayner Lewis, Steve Keyser, Mara Sargent, LaQueta Morgan, Chantelle Holman, Daniel Murphy, and Mia Benedict.

Supporters said there had been a lack of accountability in the public school system that pushed parents to look for new education solutions for their children. The passage of **S 1038** would have put parents in charge of their children's education with expanded school options. If parents had some tax dollars returned, more kids could have been sent to schools that did not suffer from overcrowding and had proven to underdeliver in terms of student proficiency in key subject areas. Supporters said the bill was very important for low-income families for whom private schools or home schooling were cost-prohibitive. Other states had already implemented successful ESA programs, and Idaho had the same opportunity.

Those who testified in opposition to **S 1038** were: Sailor Gemmell, Paul Stark, Marji Bass, Barbara Redmond, Dale Layne, Sandi Enzminger, Kathy Clees, Yvonne Sandmire, Patsy Charlton, Brian Thom, Andy Grover, Kathryn Beasley, Christine Moon, Susan Scully, Louise Brannon, Destinie Hart, Elizabeth Miller, Vickie Fadness, David Finkelburg, Chelsea Gaskill, Anise Welty, Robin Piet, Quinn Perry, Norma Fischer, Kate Milbur, Linda Anderson, Brenda Weeks, Sharese Maynard, Kirk Hingsberger, Tiffany Curci, Valerie Slavin, April Frederick, and Edmond Walsh.

Opponents of **S 1038** expressed their concern that ESA programs had a lack of accountability, and that they did not want tax dollars spent on a program that, in other states, had proven unable to achieve desired results. There were also concerns that the legislation violated both the Idaho Constitution's Blaine Amendment and the Establishment Clause of the U.S. Constitution, since public dollars were to be used to help fund private and/or religious schools. They said that, if public dollars were taken from the State that could have otherwise gone to address glaring needs in public schools, especially those in rural areas, the disparity in terms of outcomes between low-income and well-to-do families would be made more pronounced. Special education programs would have been the first to see a reduction in services and accessibility offerings, which would have caused additional hurt to those families. If Idaho already ranked low in national metrics for academic performance it was not worth the risk to pull dollars from a struggling system to kick-start an expensive new program that had proven elsewhere to be unsuccessful.

PRESENTATION:

Education Savings Accounts (ESA) - Adds to existing law to provide for education savings accounts. Senator Nichols said the legislation was created to empower families and have assistance delivered to students that were stuck in an "underperforming system." She noted that 25 of 28 studies on ESA programs concluded there was an increase in school choice provided by ESA's and they delivered positive results to families. While this program would have increased spending, **Senator Nichols** said that the State would have saved money over the long run because its per-pupil spending would have gone down if more students transferred to private schools or began home schooling. That would have benefited students that stayed in public schools because each would have been a recipient of a greater share of that spending and would not have had to learn in overcrowded classrooms. She said that all the funds used for this program would have come directly from the State, so citizens would not need to

worry about any increase in property taxes. She said additional benefits from the implementation of an ESA program included increased home and private school access for children in rural Idaho and equal access for students with disabilities, many of whom, she said, did not have their unique needs adequately met at their public schools. An additional benefit was improved outcomes for families that opted to home school. **Senator Nichols** said the creation of a voluntary program such as the one described in **S 1038**, especially at a time many parents had reported indoctrination in schools, was important. With all those reports that had come out, she said it was important for government supported education options for families for accountability purposes. For those that had concerns about the cost of the program's implementation, she said the Legislature had the authority to determine how much, or little, to fund the program each year (Attachments 1 and 2).

Senator Lenney recognized the greatest concern for this legislation was the Blaine Amendment to the Idaho Constitution, which was made in the 19th Century when school choices were incredibly limited. He said that the United States Supreme Court's decisions in *Espinosa v. Montana* and *Carson v. Makin* that overruled Blaine Amendment-type decisions made it permissible for states if they wished to have funds sent to private schools. He said he spoke with the Attorney General's Office for an opinion on the legislation and had a letter from the previous Attorney General on H 669 from the 2022 Legislative session that gave a similar opinion (Attachment 3). **Senator Lenney** said that this bill would not have defunded public schools, and that they would have been able to retain a lot of their funding. He said, with regards to funds, they were meant for the education of children, not the protection of certain public institutions. He concluded with a statement that, if the legislation were passed, families would have been able to access a portion of the funds the State had already allocated for their child that could have been used to cover expenses associated with their education, and unlike vouchers, could have been customized to meet the student's unique needs.

DISCUSSION:

Senator Ward-Engelking noted that some of the figures in the presentation materials were potentially incorrect, because there was a great deal of variance in the amount of local funding each district was able to generate. She also said spending on special needs students was performed on a district-by-district basis of the total number of students in need, rather than per pupil. Her final note was that public charter schools were unable to run bonds and levies, so they would have been adversely affected as well.

Senator Herndon said the legislation would have created two different accounts that were to be administered by the Department of Education and the Treasurer, respectively, to which funds would have been appropriated with the Legislature's approval each year. He said the funds available to public students would not have been shifted to the ESA accounts, rather, they would have been two separate pools of money, so public schools did not have their funding reduced and Idaho would have kept in accordance with its constitutional obligation to support public, K-12 schools. Having spoken with school superintendents in his district, **Senator Herndon** said he was told their understanding was the creation of a State ESA program would not have negatively impacted their schools, which helped determine his position on the bill. He expressed his dissatisfaction with the current system due to the fact that funding levels were not based on student performance.

Senator Ward-Engelking said the claims Idaho schools were failing in terms of performance were invalid, because the students had performed above the national average while being underfunded on a per-pupil basis. She expressed concern about the use of Heritage Foundation studies in the debate to demonstrate shortcomings in Idaho schools because that same group reported Idaho was third best in the nation for school choice for students. She stated another objection was that Idaho already had an ESA in the 529 Program for College Savings, and that it would have been more appropriate if the program proposed in **S 1038** was called a voucher. **Senator Ward-Engelking** said the progress Idaho had made in better-funding public education would have been set back a great deal if dollars were taken from them and redirected to private schools.

Senator Carlson said this bill would have created new learning opportunities for low-income families, many of which saw private and home school options as unfeasible before.

Senator Den Hartog said Idaho had done great work over the last several decades. Several areas where she saw improvements were expanded school choice and an adopted culture of innovation. Examples were expanded public charter school availability and better-supported career technical programs. Further, she would have preferred a bill that had family income restrictions or gave priority to low-income families. **Senator Den Hartog** declared a Rule 39(H) for a possible conflict-of-interest.

Senator Semmelroth referenced four "statistically-significant" studies that showed students performed worse in the areas of reading and math in states with voucher programs. She then said the Individuals with Disabilities Education Act (IDEA) stated that private schools were not required to accept students with disabilities because they were ineligible as recipients of public funds. She was concerned this legislation falsely promised increased access for students with disabilities and that they would have been among the population most frequently rejected admission. **Senator Semmelroth** stated rural schools would have been made less competitive, students with disabilities would have been left behind, well-to-do families would have received taxpayer-funded handouts, and student performance would decrease.

Vice Chairman Toews expressed his support for the legislation because it would have created an opportunity for the market to meet the educational needs of families with students of different abilities and needs. Additional benefits he noted were improved quality of education, reduced costs, and increased accountability in public schools.

Chairman Lent said that, in Idaho, there were plenty of options for Idaho families with students that did not want to pursue the traditional public school route. He cautioned that this bill was "too much, too fast," as the proposal lacked accountability. He expressed that he was concerned about voting to approve an expensive program that did not have enough accountability built in.

MOTION:

Senator Herndon moved to send **S 1038** to the floor with a **do pass** recommendation. **Senator Carlson** seconded the motion.

ROLL CALL VOTE: Vice Chairman Toews requested a roll call vote. Senators Den Hartog, Herndon, Carlson, Nichols, Lenney, and Chairman Lent voted aye. Vice Chairman Toews, Senators Ward-Engelking, and Semmelroth voted nay. The motion carried.

ADJOURNED: There being no further business at this time, Chairmen Lent adjourned the meeting at 6:14 p.m.

Senator Lent
Chair

Linette Grantham
Secretary

Kieran Sprague
Assistant Secretary