

MINUTES
SENATE STATE AFFAIRS COMMITTEE

DATE: Wednesday, March 08, 2023

TIME: 8:00 A.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Guthrie, Vice Chairman Bernt, Senators Winder, Brown (Anthon), Harris, Lee, Toews, Wintrow, and 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 8:04 a.m.

MINUTES APPROVAL: **Senator Lee** moved to approve the minutes of February 15, 2023. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

Senator Lee moved to approve the minutes of February 27, 2023. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

RS 30488 **Relating to Temporary Care Assistance Program - Amends Section 32-1805, Idaho Code.** **Senator Lee** said this legislation authorized the Idaho Department of Health & Welfare (H & W) to submit fingerprints of temporary caregivers to the Federal Bureau of Investigation (FBI) to process a criminal history and background check per Idaho Code § 56-1004A, Criminal History and Background Checks. The statutory update was needed in order to add the temporary caregiver category as an approved group. H & W was in the process of updating the background process and requested funds for it and other required enhancements through the regular budget process. Costs associated with waiving the background check costs would be covered by H & W through existing funds. If sent to print, this legislation would be referred to another committee.

MOTION: **Senator Winder** moved to send **RS 30488** to print. **Senator Toews** seconded the motion. The motion carried by **voice vote**.

RS 30577 **Relating to School Funds - Amends Chapter 9, Title 33, Idaho Code.** **Senator Toews** explained this legislation created a teacher spending account to help teachers offset out-of-pocket expenses for classroom supplies. It created an account but did not specify a total amount to be allocated. The legislation was subject to appropriation by the Joint Finance and Appropriations Committee (JFAC) to determine funding levels.

MOTION: **Senator lee** moved to send **RS 30577** to print. **Senator Winder** seconded the motion. **Senator Harris** declared 39(H). The motion carried by **voice vote**.

RS 30592 **Relating to the Multistate Tax Compact Advisory Committee - Amends Section 63-3706, Idaho Code.** **Senator Winder** said this legislation removed the lieutenant governor as an appointing authority for the Multistate Tax Compact Advisory Committee and replaced the lieutenant governor with the president pro tempore of the senate. There was no fiscal impact on the General Fund.

MOTION: **Senator Harris** moved to send **RS 30592** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Chairman Guthrie passed the gavel to Vice Chairman Bernt.

RS 30491

Relating to the Workforce Development Council - Amends Section 1 of House Bill 24. **Chairman Guthrie** explained this trailer bill pertained to the Idaho Launch Grant Program and In-Demand Careers Fund. The purpose of it was to enable the Workforce Development Council to coordinate the state's policy to match Idaho students with Idaho jobs in the in-demand fields to address a critical need for skilled workers. There was no incremental program cost beyond the original fiscal note for **H 24**. **Chairman Guthrie** said the legislation would lower the grant to cover \$8,500 or 85 percent of the grant, whichever was less, and created accounting reports. He said it would be referred to another committee if sent to print.

MOTION:

Senator Harris moved to send **RS 30491** to print. **Senator Winder** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Bernt passed the gavel back to Chairman Guthrie.

HCR 6

TAIWAN - States findings of the Legislature and recognizes the importance of a strong and enduring partnership with Taiwan and supports Taiwan's meaningful participation in important international organizations. **Senator Lent** presented this joint memorial to reaffirm the unique relationship and strong economic ties between the State of Idaho and the country of Taiwan. He explained that Idaho did over \$500,000,000 in business per year with Taiwan. While wheat was a big trade commodity, **Senator Lent** said the focus was mainly on electronics. He referred to our trade with Taiwan as a strategic relationship. He believed this bill sent a message to Taiwan, Idaho, and the people of the world that peace was important.

MOTION:

Senator Lee moved to send **HCR 6** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion.

DISCUSSION:

Senator Winder shared that he visited Taiwan years ago and learned one of Idaho's largest companies, Micron, was a big investor there. He knew that Taiwan had a large chip manufacturing industry and an amazing agricultural business. He commented Snake River Beef was introduced in Taiwan at a price of \$80 to \$100 per pound. While he found some of the wording in **HCR 6** to be harsh, he supported the bill.

VOTE:

The motion carried by **voice vote**.

H 182

ESTABLISHMENT CLAUSE AND FREE SPEECH COMPLIANCE - Adds to existing law to establish provisions regarding silent prayer. **Representative Ehardt** informed about the Coach Kennedy Law and provided a brief history of his faith. After Coach Kennedy was fired from his job, he took the case through the court systems to the Supreme Court. In 2022 the Supreme Court issued a decision in the Kennedy v. Bremerton case affirming the First Amendment right and religious freedom. **Representative Ehardt** described how, when, and where we have the ability to pray (silently or aloud) as long as it was not disruptive. First Liberty Institute helped write this legislation for several states, including **H 182**. **Representative Ehardt** emphasized the importance of codifying this in Idaho and referred to a 2020 incident that occurred after a Brigham Young University (BYU) and Boise State University (BSU) football game. She asked Pastor Mark Thornton to describe the incident and its impact.

Pastor Thornton, chaplain for the BSU football team, said he routinely prayed with the team before and after games. In 2020, during COVID, many young men struggled with uncertain futures and prayer helped them focus on the important

things. He said he was upset by the attack by an outside organization from Wisconsin. The organization stated BSU was forcing kids to pray in order to play ball. **Pastor Thornton** denied the accusation and declared the players made the decision to pray. Regardless, the organization tried to have the pastor removed from the team. Because this was a first experience for BSU, the school took a week to investigate. During that week, the pastor was unable to travel with the team. He said players called him and they Face-Timed and prayed together while the team was on the road. **Pastor Thornton** said that did not sound like coercion; it was something the players felt was necessary to help them. He said implying that public prayer was a violation of the constitution was forgetting the founding principles of our country. He reminded that no one seemed to have a problem with public prayer during a tragedy like the Damar Hamlin situation during the Buffalo and Cincinnati football game, or the tragic death of four students at the University of Idaho. **Pastor Thornton** noted there was no outcry about people getting together to pray at vigils held at schools. He said he was here to testify to the power of unity through prayer. He hoped no outside organization would be allowed to tell Idaho what was best for its young people.

Senator Wintrow asked Representative Ehardt to explain the quotes in the bill from the United States Constitution. It also seemed unorthodox to her to incorporate some of Coach Kennedy's biography in code and asked about fact checking of it. **Representative Ehardt** said legislative findings (telling the story) was becoming more common practice. Regarding the accuracy of the Kennedy story, it was the same story presented to the Supreme Court. She believed the language made the legislation stronger. **Senator Wintrow** noticed the bill talked about silent prayer, but she questioned if, the case of Kennedy, it was silent. **Representative Ehardt** responded that was the title the Legislative Services Office (LSO) gave to the document. She added silent and vocal prayer was permitted as long as it was not disruptive.

Senator Bernt failed to see where the language referencing marriage and polygamy had anything to do with the purpose of the bill. It seemed irrelevant to the story about Coach Kennedy and the bill. **Representative Ehardt** explained the First Liberty Institute clarified that before the Supreme Court and wanted to keep it in **H 182**. She was receptive to removing some of the language if the bill was referred to the **14th Order of Business** for possible amendments.

Senator Winder commended Pastor Thornton for being a witness to young men and teaching them there were more important things in life than football. He read from the bill, "No person shall be required to attend or support any ministry or place of worship, religious sect or denomination, or pay tithes..." He noted the language in code strengthened law more than a resolution.

Senator Lee struggled with the cause of action and suggested it would only have come into play if BSU had done something differently in the BYU and BSU case. **Representative Ehardt** agreed, adding that when the exercise of rights was prevented, the cause of action came into play. She understood anyone could be sued at any time for anything. She recognized that BSU acted quickly (within a week), supported Pastor Thornton and the football team, and resolved the issue quickly. By including a cause of action in this legislation, it sent a loud, clear message of supporting the First Amendment and freedom of religion.

TESTIMONY:

The following registered to testify against **H 182**: Amy Dundon, Emilie Jackson-Edney, and Steve Rostron. Nina Beesley registered to testify in favor of **H 182**.

Steve Rostron expressed his opposition to the bill as it referred to the Coach Kennedy Law. He claimed if Coach Kennedy prayed alone, this would not be an issue. He claimed what Coach Kennedy did was contrary to the words of Christ. He continued that Jesus told his followers to go into the closet to pray and with a few exceptions, Jesus did not pray in public. **Mr. Rostron** likened this to legislating by fear and concluded that silent prayer was not a problem. He wanted the Coach Kennedy name stricken from the bill.

Amy Dundon, American Civil Liberties Union of Idaho (ACLU), opposed this bill in favor of protecting the First Amendment. She stated we should neither promote, nor interfere with the free exercise of religion. She said prayer in school was constitutionally permitted as brief, quiet, and a personal religious observance. **Ms. Dundon** stated Coach Kennedy kept long standing prayer, which exceeded the constitution. She believed this bill would allow teachers and others to pray in conspicuous ways, which infringed on the First Amendment and failed to protect Idaho children who might be more vulnerable to religious coercion. She urged the Committee to vote no on **H 182**.

Senator Wintrow asked if she was a teacher, teacher's aide, or a student, did she have the right to pray silently, briefly, or privately in a public school? **Ms. Dundon** said she did as a private practice. **Senator Winder** commented that we do not have freedom of silence, we have freedom of speech. **Ms. Dundon** responded that some students might feel excluded, regardless of their faith. She suggested students might feel obligated to join in or they might feel uncomfortable. It was unfair, in her opinion, to expect exposure of a religious practice you might not be comfortable with outside of your religious scope.

Representative Ehardt stated our founders specifically laid out freedom of speech and freedom of religion. Freedom of religion was about the ability to take religion to the public square. If a person was only allowed to pray silently, at home, at their church, or in their head, you did not have freedom of religion. She claimed freedom of speech was directly tied to freedom of religion. She referenced Mr. Rostron's comment about Christ and public prayer. She stated our ability to pray with each other and in groups was where the power of prayer manifested itself. She responded to the comment that this language deviated from what the Supreme Court said when First Liberty Institute represented Coach Kennedy and wrote it in other states. This was not a deviation. In the House of Representatives, someone accused Coach Kennedy of coercion. **Representative Ehardt** claimed Representative Skaug knew Coach Kennedy and the representative testified on the floor that was not what happened. She talked about a history of pray in schools, before sporting events, and at assemblies. In her opinion, if we wanted to protect children from something, we should start by protecting them from porn. She stated this was good legislation and she hoped the Committee would consider moving it forward.

Pastor Thornton closed by referring to the Lord's Prayer from the Bible. He provided his definition of prayer as an earthly license for heavenly interference. He said a conversation was not held in our heads but verbal. He commented on the Constitutional Convention from 1787 that described how delegates were challenged by Benjamin Franklin to pray, concluding that God governed in the affairs of man. **Pastor Thornton** said most prayer was not silent, the silent prayer he considered meditation. He believed this bill would give a safeguard for prayer to draw people together.

Senator Wintrow asked if when Pastor Thornton prayed with the men, was it a Christian prayer, a Muslim prayer, or a Jewish prayer? **Pastor Thornton** responded that prayers with the players started as a prayer of thanksgiving for the opportunity

to go out and play, a prayer of protection, and things like that. He stated he ended the prayer in Jesus's name. He acknowledged there were men of different faiths on the team that gather together in prayer. He explained he was not preaching a sermon or directing them in how they live their lives. The prayer brought them together in thanks for the opportunity to come together and play.

Senator Lee supported cleaning up some of the language and asked Representative Ehardt if removing the cause of action would gut intent of the legislation? **Representative Ehardt** felt it would be wise to leave the language because it sent a strong message. She said the cause of action held people's feet to the fire. **Senator Lee** expressed concern about putting something in legislation that would say this is the value of Idaho. She speculated there could be overly zealous groups that might go out looking for these efforts. **Representative Ehardt** responded that she did not think that would be the case. She was more concerned about organizations who did not want this to happen. In her opinion, this legislation acted as a shield between people of faith and those who would flex muscle to force schools to do something contrary.

Senator Ruchti asked if this bill might degrade the established prohibition that prevented seminary or other religious teachings being taught in schools? **Representative Ehardt** said it did not have an effect.

MOTION: **Senator Toews** moved to send **H 182** to the floor with a **do pass** recommendation. The motion died for lack of a second.

INTRODUCTION: **Chairman Guthrie** asked Senator Melissa Brown to introduce herself and apologized for not doing so sooner. Senator Brown shared she was a farm kid from Burley where she and her family partnered on a small herd of Charolais cattle. Her education included studying agricultural business, equine business management, and a Bachelor's degree in music. During free time, she liked to study the mechanics of government.

MOTION: **Senator Winder** moved to send **H 182** to the floor with a recommendation it be sent to the **14th Order of Business** for possible amendment. **Senator Bernt** seconded the motion.

DISCUSSION: **Senator Ruchti** stated he would vote against the motion. His concerns included civil cause of action. He said the bill was presented as silent prayer. but that was not what this did. He said anyone could pray at any time. He felt this was about conspicuous, vocal prayers during school hours, which took on a different meaning. He said prayer in after hour activities like ball games might not be as concerning. However, talking about bringing prayer into school hours, and given the dynamics of school for students and teachers, it took on a different meaning. He noted there was a difference between praying and proselytizing. No one had problems with silent prayer, but prayers used to promote a religion was different. He believed there was a reason Coach Kennedy prayed at the 50 yard line. **Senator Ruchti** suggested that when the coach went out alone on the 50 yard line it was not to pray, it was to be conspicuous about it so everyone could see him. **Senator Ruchti** talked about growing up in the Church of Jesus Christ of Latter Day Saints (LDS). He did not think the LDS faith excluded people, but he admitted people described their experiences to him of feeling very excluded because of talk of seminary or references to brother or sister-so-and-so. People who were not part of the main religion of a community felt excluded and **Senator Ruchti** felt this bill would put that temperament on steroids. He suggested dynamics that could be displayed, like a biology teacher holding prayer in the hallway with students who "voluntarily" joined in. Desperate to get a good grade, a student might feel the need to join that prayer group. He commented that some Christian religions did not consider the LDS religion to be Christian. What if an LDS kid was in a community where the LDS religion was not dominant? **Senator Ruchti** thought this discussion was dangerous

territory to get into. He concluded that the framers of the Idaho Constitution took up more than once whether Bible reading should be done in schools and the concept did not pass. The framers felt it would be too divisive. **Senator Ruchti** stated, for those reasons he would vote against the motion.

VOICE VOTE: The motion carried by **voice vote**. **Senators Wintrow** and **Ruchti** requested to be recorded as voting no.

ADJOURNED: There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 9:08 A.M.

Senator Guthrie
Chair

Joyce Brewer
Secretary