

MINUTES
HOUSE EDUCATION COMMITTEE

DATE: Thursday, March 01, 2012

TIME: 8:30 A.M.

PLACE: Room EW41

MEMBERS: Chairman Nonini, Vice Chairman Shirley, Representative(s) Trail, Block (Block), Nielsen, Chadderdon, Shepherd, Wills, Marriott, Thayn, Hartgen, Bateman, Boyle, DeMordaunt, Nessel, Pence, Chew, Cronin

**ABSENT/
EXCUSED:** None

GUESTS: Senator Fulcher; Joe Stegner, University of Idaho; Darin DeAngeli, Ahrens DeAngeli Law Group; Jason Hancock and Luci Willits, State Department of Education (SDE); Diane Demarest, Idaho Charter School Network; Kirk Vanderleest, Ambrose School; John Carnahan, Logos School; Jackie Collins, Idaho Arts Charter School; Don Keller, Sage International School; Cindy Hoovel, DaVinci Charter School; Marilyn Whitney, State Board of Education (SBE); Julie Hammons, Idaho High School Activities Association (IHSAA); Max Greenlee, Risch Pisca; Suzanne Budge, SBS Associates

Chairman Nonini called the meeting to order at 8:32 a.m.

S 1301: **Rep. Trail** presented **S 1301**. He stated that this legislation directs the State Board of Education to define and implement a process outlining secondary school accreditation requirements for the purpose of participation in extracurricular activities. Students at some private Idaho schools do not have access to compete at the district and state level competitions in the only viable athletic system in the State of Idaho, which is regulated by the Idaho High School Activities Association (IHSAA).

Senator Fulcher further explained **S 1301**, stating that this bill gives the State Department of Education an assignment that has nothing to do with academics. He said that the IHSAA is the governing body for high school athletics. There are two requirements for schools to achieve full membership. The school must meet certain physical and fiscal requirements and it must be recognized by the State (or a third party recognized by the State) for academic accreditation. Associate membership is possible and allows schools to play in leagues but not in tournaments. Associate members would like to become full members but need to meet accreditation requirements. Full members are concerned about who will take over coordinating and monitoring the accreditation process because the body that the State of Idaho hired to coordinate and monitor accreditation was recently purchased. **S 1301** is the solution to this problem; the State Department of Education can look at this problem and honor the IHSAA's need to have State recognition and provide a path forward for those schools requiring full membership in the IHSAA.

In response to questions, **Senator Fulcher** stated that he is not aware of all the reasons why the State originally chose to use a private organization as the State's academic accrediting body.

Luci Willits, State Department of Education (SDE), responded to questions. She stated that the State's accrediting body was selected a few years ago to assist the SDE. Recently that body, the Northwest Accreditation Commission (NWAC), was purchased, and it is possible that the new accrediting body could raise fees. Concerns related to the recent purchase include the amount of input and control that Idaho will continue to have. Currently the SDE holds one seat on the High School Activities Board. The SDE could explore resuming responsibility or finding another vendor.

Responding to an additional question, **Senator Fulcher** provided practical examples of programs and activities provided at associate member schools.

MOTION:

Rep. Shirley made a motion to send **S 1301** to the floor with a **DO PASS** recommendation.

Julie Hammons, Idaho High School Activities Association (IHSAA), testified in support of **S 1301**. She stated that this is a compromise the IHSAA's Board of Directors approves and that the IHSAA does not want to be in the business of accreditation.

VOTE ON MOTION:

Chairman Nonini called for a vote on the motion to send **S 1301** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Trail** will sponsor the bill on the floor.

S 1314:

Rep. DeMordaunt presented **S 1314**. This legislation clarifies rules of construction of gift instruments which create charitable endowments. Under the Uniform Prudent Management of Institutional Funds Act (UPMIFA), charities are required to invest and spend endowment funds under the guidelines set forth in Idaho Code Sections 33-5001 through 33-5010. He stated that this legislation is about bringing statute into the 21st Century. This legislation modifies Section 33-5004 to assist charities that manage endowment funds in interpreting language in gift instruments related to preserving and spending endowments.

Darin DeAngeli, Ahrens DeAngeli Law Group, stated that this is a small clarification of the Uniform law. UPMIFA was completely revised in 2007. It is the law in fifty (50) out of fifty-three (53) jurisdictions. It applies to all charities that manage any funds in the State of Idaho. It does reach past educational institutions and could apply to hospitals, museums, or other agencies/organizations that hold endowments. The UPMIFA commissioners assisted in the development of the new language.

In response to questions, **Mr. DeAngeli** stated that if the statute requires total return investing, it does not pay attention to receipts as income or principal. **S 1314** is intended to continue to support endowment contracts between donors and charities. It is intended to give boards spending authority rights related to their endowments. He discussed capital gains as income and how those funds are currently considered part of principal, but as earnings should be allowed to be allocated for spending if agency boards of directors believe that was the intent of their original gifts. Investing under modern portfolio theory requires flexibility; it is no longer just about simple interest. New investing strategies require new spending strategies. He said that **S 1314** is broad and could encompass both private and public endowment funds.

Rep. DeMordaunt stated that it is his understanding that **S 1314** has to do only with institutional funds and not with State endowments.

Joe Stegner, University of Idaho, spoke in support of **S 1314**. He stated that it makes a necessary clarification.

Mr. DeAngeli, Ahrens DeAngeli Law Group, responded to additional questions. He stated that inflation must be considered. There was a court ruling that declined to approve an effort to allow flexibility to a board of directors. The ruling was interpreted as allowing room to return to the discussion, however, in examining current Idaho Code it was determined that a weakness existed in statute.

MOTION: **Rep. Thayne** made a motion to send **S 1314** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. DeMordaunt** will sponsor the bill on the floor.

RS 21401: **Jason Hancock**, State Department of Education (SDE), presented **RS 21401**. This proposed legislation implements the 2011 Public School Technology Task Force's recommendation that the State create a web-based clearinghouse of approved online courses, accessible to students, parents and schools. The clearinghouse would provide information on available courses, including quality ratings provided by those who have previously taken the course. The website would enable parents and schools to make more informed decisions about which online courses students take, and would help create competition among course providers for a higher quality product. Up to \$500,000 would be allowed to be expended from the approximately \$8.5 million in existing Public School Technology funds in FY 2013, in order to create the web-based clearinghouse. This allocation would then be reduced to \$150,000 in future fiscal years.

MOTION: **Rep. Shepherd** made a motion to introduce **RS 21401**.

In response to questions, **Mr. Hancock**, State Department of Education (SDE), stated that a consultant is working on how best to implement the program. It is possible that staff members will be hired; it is also possible that an outside consulting firm will be used.

VOTE ON MOTION: **Chairman Nonini** called for a vote on the motion to introduce **RS 21401**. **Motion carried by voice vote.**

H 604: **Jason Hancock**, State Department of Education (SDE), presented **H 604**. This legislation would provide statutory framework for the SDE's review of online courses, which is a function that the SDE is required to perform by Idaho Code Section 33-1627. It also formalizes the Department's practice in the area of textbook and curricular material reviews.

MOTION: **Rep. Thayne** made a motion to send **H 604** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Pence** will sponsor the bill on the floor.

H 605: **Jason Hancock**, State Department of Education (SDE), presented **H 605**, which would increase the fee charges for fingerprint background checks from \$40 to \$55. This is necessary due to the 2012 Legislature's approval of an Idaho State Police rule increasing their portion of the fee from \$10 to \$25. It would also provide a mechanism for teachers to be notified by email when their certifications are about to lapse. Approximately \$190,000 in dedicated fund revenue is expected to accrue to the Idaho State Police.

In response to questions, **Mr. Hancock** stated that he believes there are plans to modernize systems to eliminate ongoing fingerprint checks. If **H 605** does not pass, money paid out to the Idaho State Police and the FBI would exceed the money being collected. There would no longer be employees to handle background checks. The related fee increase currently exists in rule.

MOTION:

Rep. Wills made a motion to send **H 605** to the floor with a **DO PASS** recommendation. He spoke to his motion, saying that alternatives need to be considered, however, at this time this legislation seems necessary. He does not like utilizing volunteer resources and requiring those volunteers to take on increased financial responsibility for volunteering.

Rep. Cronin, in opposing the motion, stated that last year the House refused to raise fees on felons by \$5 as a matter of principle, and he is concerned about raising fees for teachers and volunteers.

VOTE ON MOTION:

Chairman Nonini called for a vote on the motion to send **H 605** to the floor with a **DO PASS** recommendation. **Chairman Nonini** stated that he was in doubt regarding the voice vote and a roll call vote was requested. **Motion carried by a vote of 10 AYE, 7 NAY, 1 absent/excused. Voting in favor** of the motion: **Reps. Shirley, Block (Block), Nielsen, Chadderdon, Wills, Marriott, Thayn, Hartgen, Bateman and Nessel. Voting in opposition** to the motion: **Reps. Shepherd, Boyle, DeMordaunt, Pence, Chew, Cronin and Chairman Nonini. Rep. Trail was absent/excused. Rep. Wills** will sponsor the bill on the floor.

Diane Demarest, Idaho Charter School Network, gave a presentation to the committee. She stated that currently in Idaho, there are forty-three (43) charter schools operating with over 18,000 students. Seven (7) of these schools are virtual schools and thirty-six (36) are brick-and-mortar schools, doing most of their instruction in a primary location. Options for charter school facilities include commercial or retail locations, portables, retired schools, new conventional buildings, or state-of-the-art new school buildings. Currently in Idaho, twenty-four (24) schools are leasing facilities and nineteen (19) own their facilities. Among those that own their facilities, most have built schools using new construction. Among those who lease, a majority are using commercial buildings. New charter schools face challenges including a lack of start-up funding, limited suitable property, and limited experience with the bond market or building. Ongoing challenges for charter schools include not having necessary space for expansion, difficulty finding adequate facilities, and the reality of having to use average daily attendance (ADA) funding to pay a lease or mortgage. Charter schools in Idaho are funded 24.5% less on average than other public schools.

Jackie Collins, Idaho Arts Charter School (IACS) located in Nampa, discussed facilities. The IACS opened in 2005 and has been growing. Currently there are 700 students with another 500 students on a waiting list. The school began in portables and remained in those buildings for three years. During that time, the school was able to accumulate a reserve of \$500,000 through saving and grant funding. The school was bonded for 7.5 million dollars in 2008, and purchased the oldest school building in Nampa, which was built in 1900. They renovated it, built an addition, purchased two homes across the street and put in parking space. They are currently completing an agreement for another 1.8 million loan to build another addition. She discussed fees and payments that come from ADA funding. If the ADA funding was not spent to secure and service debts, it would be used to hire additional teachers and materials. Currently there is not a full time custodian or nurse, so teachers and other staff members handle accidents and emergencies.

Diane Demarest, Idaho Charter School Network, discussed funding for Monticello Montessori. After fixed costs for teachers that are required by statute, there is not adequate funding for other expenses.

Don Keller, Sage International School, said that today his school will draw names for new students from the lottery system waiting list. He said it is difficult to know that approximately four hundred (400) students will not be chosen. He stated that it took him more than three years to locate an appropriate facility for his charter school. The J.A. and Kathryn Albertson Foundation, along with the State Department of Education and local parents, assisted in securing the location and making it usable. Sage began with 218 students. This year there are 350, and next year Sage will have 450 students. He believes that when he considers waiting students, he could enroll 1400 children if space was not a problem. Currently 64% of Sage's entitlement funding is going toward facility lease expenses. Sage was at 97% academic performance last year.

Cindy Hoovel, DaVinci Charter School in Garden City, said that DaVinci is arts integrated and hands-on. She stated that she refers to DaVinci as a "wiggly school" where children need more movement and interaction. Their first site was a rented church. For several years after that, the school was located in a repurposed strip mall. During that time, a gun shop and brewery leased space next to the school. DaVinci's lease was not renewed because the strip mall owner stated that the school did not match the type of businesses he wanted to attract as renters. The school had two weeks to relocate. Recently the school moved to portables and is waiting for a school building to be built.

Diane Demarest, Idaho Charter School Network, stated that there are no emergency or bond levies for charter schools, and charter schools pay a higher interest rate than other public schools. These schools must use their ADA funds to pay for facilities. Other states are finding solutions to these problems including providing dedicated state facility funding, state grant programs, state credit enhancement, local district bond reviews, and a state charter school facilities initiative grant program.

Jackie Collins, Idaho Arts Charter School, responded to a question, saying that her school's bond rating has improved. There are two charter schools in Meridian who have agreements with the Meridian Joint School District to rent facilities for \$1 per year. The Idaho Arts Charter School operates as a 501(c)(3).

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:32 a.m.

Representative Nonini
Chair

Mary Tipps
Secretary