

MINUTES
HOUSE EDUCATION COMMITTEE

DATE: Tuesday, March 20, 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:** Representative Block (Block)

GUESTS: Karen Echeverria, Idaho School Boards Association (ISBA); Dale Buwalda, Milton Friedman Foundation for Educational Choice; Suzanne Budge, SBS Associates; Briana LeClaire, Idaho Freedom Foundation; Phil Homer, Harold Ott and Rob Winslow, Idaho School Administrators Association (IASA); Bert Marley and Paul Stark, Idaho Education Association (IEA); Max Greenlee, Risch Pisca; Luci Willits and Jason Hancock, State Department of Education (SDE); Marilyn Whitney, State Board of Education; Cindy Omlin, Northwest Professional Educators

Chairman Nonini called the meeting to order at 8:33 a.m.

MOTION: **Rep. Thayn** made a motion to approve the minutes of March 15, 2012. **Motion carried by voice vote.**

H 670: **Chairman Nonini** presented **H 670**, which provides a credit on state income taxes to individuals and corporations that make donations to scholarship granting organizations providing scholarships to qualified K-12 students attending approved schools. Chairman Nonini has heard from many parents of former private school students who have removed their children from private schools due to personal economic decline. This has had a negative effect on private schools, who have had to lay off employees due to decreased revenue, and has also brought Idaho's public schools an increase in students, at an increased cost to the State.

Dale Buwalda, Milton Friedman Foundation for Educational Choice, explained that **H 670** is similar to proposals in forty-two (42) other states. There are currently eighteen similar tax credit programs in states across America. This bill provides parents with additional school choices. Mr. Buwalda said that tax credits represent a small portion of the State's budget. Florida has a scholarship tax credit program. In 2008, Florida's Office of Program Policy and Government Analysis found that for every \$1 in foregone revenue, the tax credit generated \$1.49 in revenue for the State.

In response to questions, **Mr. Buwalda** stated that this program would help low income as well as middle class working families. This represents approximately eighty percent (80%) of Idaho's families. Illinois does not have this tax credit program. Certain states, such as Georgia, have 100% eligibility. Scholarships for students are capped at what a student's local district would have spent on that student. Tax credits go to individuals and corporations making donations, not to parents of students receiving scholarships. It is possible that the parent of a student who is receiving a scholarship could make a donation to a scholarship granting organization and receive a tax credit for that contribution. The bill does not allow individuals who donate to Scholarship Granting Organizations (SGOs) to select scholarship recipients.

In response to questions, **Chairman Nonini** stated that the bill outlines requirements for qualified schools, Scholarship Granting Organizations, and scholarship recipients. He said that individual families and students would benefit from receiving scholarships and being able to utilize private schools. There is a group in Northern Idaho that would begin offering scholarships if **H 670** becomes law. He stated that he believes in parental choice in education. Homeschoolers are not required to use standardized tests. Page two (2) of the bill, beginning on line fourteen (14), discusses tax filing as it relates to this bill and references existing Idaho Code. Chairman Nonini said that he spoke with **Dan John** at the Idaho Tax Commission to ensure that language in this legislation would not be problematic. **H 670** states that all schools must be located in Idaho and must comply with all State laws. If there is a large number of scholarship applicants, income will be a determining factor in awards.

Dale Buwalda, Milton Friedman Foundation for Educational Choice, responded to additional questions. A family that has recently moved to Idaho could qualify for scholarships under this program. A vast majority of funding for education comes from the State level. There is a statewide cap of \$10 million in this bill. He discussed Scholarship Granting Organizations in Indiana. Scholarships of greater value provide more robust assistance. Space under the cap for a particular contribution must be verified. Once a contribution is made, reports on how the money is spent are generated. In some other states, a child attending a public school outside his or her home district could be assessed levies and fees. This does not currently apply in Idaho. **H 670** would specifically address private schools in Idaho. On page three (3), section E, Scholarship Granting Organizations are prohibited from serving only a single school. Scholarship contributors are not able to specify which student(s) they want to serve with their contribution. Rules related to this program would be promulgated by the State Department of Education.

Representative Cronin stated that this is taxpayer money subsidizing private education.

Mr. Buwalda responded to additional questions, explaining that States have requirements for private schools. This bill will not impact families who are happy with their current public schools, but only seeks to increase options and choices for families who would rather enroll their children in private schools but require financial assistance. In most states, some contributions are made by individuals, but most are made by corporations and small businesses. Private schools will be helped by the addition of students. This legislation does not address accountability through testing or impose any new restrictions on private schools. Three states have standardized testing mandates for private schools. Mr. Buwalda said that the ultimate form of transparency and accountability is allowing parents to "vote with their feet" and move their children to schools that they believe provide the best education. He cited a group that increased funding through philanthropic dollars. Scholarship Granting Organizations (SGOs) are required to provide fiscal transparency. It is possible that additional staff members would be needed to process tax credits and SGO spending. Low income families typically do not have the financial ability to make contributions to SGOs.

Mr. Buwalda walked the committee through a handout of nine tables that contain fiscal information related to this tax credit program as it exists in Florida, as well as fiscal projections for the State of Idaho.

Karen Echeverria, Idaho School Boards Association (ISBA), stated that the ISBA's Governmental Affairs Committee met last week and was unable to reach a position on the bill.

Rob Winslow, Idaho Association of School Administrators (IASA), stated that the IASA does not have an opinion on this legislation at this time.

Paul Stark, Idaho Education Association (IEA), stated that the IEA opposes tax incentives to support private education and is **opposed to H 670**. He said that the legislation creates a two-tiered system and could potentially take \$10 million from the State. He is also concerned that citizens will donate to Scholarship Granting Organizations (SGOs) instead of to other organizations so that they can secure the tax credit. He referenced various things that the State of Idaho could do with \$10 million. He also stated that there is a constitutional mandate forbidding the government from subsidizing religious schools. He stated that the tax credit equates to "filtering money" through SGOs and giving it to private schools. He also stated that it "sets a dangerous precedent by allowing taxpayers to pick and choose" what taxes they will pay. He said that there is no protection in this legislation for earmarks, and nothing to prevent homeschooling families from setting up their own SGOs to "launder money". He discussed fixed versus variable costs.

Representative Nielsen stated that Mr. Stark is making an assumption that all tax dollars go into public education, which is not true. He said that he is in favor of parental choice.

Paul Stark, Idaho Education Association (IEA), said that the loss of tax dollars to the State will be a problem if this legislation becomes law.

Rep. DeMordaunt stated that over time, all costs are variable. He said he believes that over time, the projected cost savings in this bill are real.

Paul Stark, Idaho Education Association (IEA), said that schools' operating costs will remain the same regardless of whether they have fewer students enrolled, and stated that this legislation could change student demographics, leading to increased costs.

Responding to questions, **Mr. Stark** stated that while he said that this legislation could lead to constitutional challenges, he is not aware of any constitutional challenges in other states that have adopted this tax credit program.

Rep. Bateman said that he believes that this type of tax credit program has been upheld by the Supreme Court.

Chairman Nonini stated that **Mr. Stark's** testimony seemed to focus on losing money but did not address parental choice or student performance.

Paul Stark, Idaho Education Association (IEA), responded, saying that this bill is about funneling money through a Scholarship Granting Organization to secure a place in a private religious institution for one's children.

Rep. Nielsen stated that Scholarship Granting Organizations are cautious about accepting certain donations in order to protect their nonprofit 501(c)(3) status.

Dale Buwalda, Milton Friedman Foundation for Educational Choice, stated that in the long run all costs are variable. Since 1976, there has been a long history of providing tax credits through organizations that are affiliated with a religious body. He cited a ruling by the United States Supreme Court in 2002 that supported the rights of religious organizations to receive funding and support.

Chairman Nonini said that while parental choice does exist, if a family cannot pay tuition at a private school, that family does not have the choice to send their children to a private school.

Rep. Thayne stated that the \$10 million limit is not clear and needs to be addressed. He also said that providing scholarships for students from families that are at or below 250% of Federal Poverty Level may not be appropriate in Idaho. Additionally, he is concerned about clarifying the "wink and nod" issue as it relates to donating families being given scholarship preference. He said that he does believe this would save the State money in the long run.

**ORIGINAL
MOTION:**

Rep. Thayn made a motion to **HOLD H 670** in committee.

Rep. DeMordaunt stated that while he does believe in parental choice in education, it does not fully exist due to public school district boundaries. He stated there is an existing tax credit for individuals and corporations. He said although he supports the idea provided in **H 670**, more discussion is needed. He supports the original motion.

**SUBSTITUTE
MOTION:**

Rep Shepherd made a substitute motion to send **H 670** to the floor with a **DO PASS** recommendation.

Rep. Hartgen said that he attended a private school and appreciates choice in education, however, he is concerned about the "wink and nod" and would encourage further discussion.

Rep. Nielsen said that he wonders if some simple language changes could be made.

Chairman Nonini stated that he would be willing to work on the bill to make changes.

**AMENDED
SUBSTITUTE
MOTION:**

Rep. Nielsen made an amended substitute motion to send **H 670** to General Orders.

Rep. Bateman called for the question.

**ROLL CALL
VOTE ON
AMENDED
SUBSTITUTE
MOTION:**

Chairman Nonini called for a vote on the amended substitute motion to send **H 670** to General Orders. He stated he was in doubt regarding the voice vote and asked for a roll call vote. **Motion carried by a vote of 11 AYE, 6 NAY, 1 absent/excused.** **Voting in favor** of the motion: **Reps. Shirley, Nielsen, Chadderdon, Shepherd, Marriott, Thayn, Hartgen, Bateman, Boyle, DeMordaunt** and **Nonini.** **Voting in opposition** to the motion: **Reps. Trail, Wills, Nessel, Pence, Chew** and **Cronin.** **Rep. Block (Block) was absent/excused.** **Chairman Nonini** will sponsor the bill on the floor.

H 671:

Karen Echeverria, Idaho School Boards Association (ISBA), presented **H 671**. She stated that she presented the committee with the content of this bill during the hearing on **RS 21474** and can either go through the information again or simply stand for questions.

MOTION:

Rep. Thayn made a motion to send **H 671** to the floor with a **DO PASS** recommendation.

Cindy Omlin, Northwest Professional Educators, stated that she **supports H 671**. She outlined her experience and involvement in a teachers' union, where she said she discovered a heavy-handed culture that could not easily be reformed from within. In response to that experience, she helped to form a new association for teachers and administrators. She said that **H 671** would help educators to make decisions on their own, without intimidation tactics from the teachers' union.

Representative Chew asked **Chairman Nonini** if **Ms. Omlin's** testimony was germane to the bill. He responded that it was and he would allow testimony to continue.

In response to questions, **Ms. Omlin** said that the State will put together a registry list that school districts will submit to employees. Her organization was invited to participate in a school district benefit fair in the Emmett School District, but the union representative threatened the superintendent and her organization was asked to leave. She explained that The Northwest Professional Educators organization provides liability insurance but does not negotiate on behalf of teachers.

ADJOURN: At the request of the Speaker of the House, the meeting was adjourned at 10:21 a.m. with the remaining discussion on **H 671** and **H 672** to be carried over one legislative day to March 21, 2012, at 8:00 a.m.

Representative Nonini
Chair

Mary Tipps
Secretary