

MINUTES
HOUSE EDUCATION COMMITTEE

DATE: Thursday, March 14, 2013

TIME: 9:00 A.M.

PLACE: Room EW41

MEMBERS: Chairman DeMordaunt, Vice Chairman Nielsen, Representatives Shepherd, Wills, Bateman, Boyle, Agidius, Clow, Gestrin, Harris, Horman, Mendive, VanOrden, Pence, Kloc, Ward-Engelking

**ABSENT/
EXCUSED:** None.

GUESTS: Harold Ott, Idaho Rural Schools Association; Rob Winslow and Phil Homer, Idaho Association of School Administrators; Robin Nettinga, Idaho Education Association; Jessica Harrison, Idaho School Boards Association; Marilyn Whitney, Idaho State Board of Education; Monica Hopkins, American Civil Liberties Union (ACLU) of Idaho; Bruce and Charles Skaug, Jesse Barnum, Kyle Clifton, Nate Jansen, Kayla Cuvelier, Sam Kelly and Nathan McIndoo, citizens; Joe Stegner, University of Idaho, Special Assistant to the President for State Governmental Relations

Chairman DeMordaunt called the meeting to order at 9:02 a.m.

MOTION: **Rep. Kloc** made a motion to approve minutes for March 8, March 11 and March 12, 2013. **Motion carried by voice vote.**

SR 120: **Sen. Buckner-Webb** presented **SR 120** commending the Boise Independent School District for exemplary dedication and commitment to the success of Boise students. She told the committee the Boise District received the 2013 Read Right Award of Excellence. She related the achievements the district has seen through implementation of the Read Right Program.

MOTION: **Rep. Agidius** made a motion to send **SR 120** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Kloc** will sponsor the bill on the floor.

H 275: **Rob Winslow**, Director, Idaho Association of School Administrators, said **H 275** allows public schools "Use It or Lose It" flexibility in staffing certificated positions. He noted, a district may employ 9.5 percent fewer positions without a reduction in the number of funded positions being imposed. He said the measure was implemented during the "economic crunch," but the percentage may be reduced as more funding comes to public schools. He indicated the legislation comes with a one-year sunset clause.

In response to questions from the committee, **Mr. Winslow** said as the money is restored to the public education system, there will be a logical and prudent scaling back. He said they are currently maintaining the 9.5 percent because some districts, in crisis, require it. He noted the funds can be used for teachers; also, there are conditions for supplementary uses.

Robin Nettinga, Idaho Education Association (IEA), testified **in support of H 275**. She said the IEA has historically favored "Use it or Lose it," but is concerned about class size. She indicated, the IEA favors the sunset clause to assure continued collaboration between stakeholders.

In response to a question regarding teacher competence and class size, **Ms. Nettinga**, said "class size" is an easy label for a very complicated issue.

Jessica Harrison, Policy and Government Affairs Coordinator, Idaho School Boards Association, spoke **in support of H 275**, saying the flexibility is still needed.

MOTION: **Rep. Ward-Engelking** made a motion to send **H 275** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Ward-Engelking** will sponsor the bill on the floor.

Chairman DeMordaunt turned the gavel over to **Vice Chairman Nielsen**.

RS 22240: **Rep. DeMordaunt** explained the purpose of the proposed legislation is to direct funding that is included in the proposed budget. In the past 1.67 percent of the money directed for salary-based apportionment had been redirected. This legislation is to stipulate that the money will be used for either reducing class size by hiring new teachers or adding back teaching days; or, a combination of both of these.

To a question from the committee, **Rep. DeMordaunt** said if the proposed legislation was not implemented, the direction of those funds would not take place.

MOTION: **Rep Kloc** made a motion to introduce **RS 22240**. **Motion carried by voice vote.**

Vice Chairman Nielsen turned the gavel over to **Chairman DeMordaunt**.

S 1078: **Sen. McKenzie** presented **S 1078**. He explained that the legislation would prohibit Idaho public postsecondary educational institutions from discriminating against a religious student group, based on the religious student group's requirement that its leaders adhere to its sincerely held religious beliefs, or standards of conduct. He produced a copy of a letter from the Judiciary of the Associated Students of Boise State University (ASBSU) to the Cornerstone Ministries (CM) Officers, as justification for the legislation. The ASBSU letter pointed out language in the constitution of Cornerstone Ministries which they found to be in conflict with the nondiscrimination clause at the university. Sen. McKenzie indicated the requirements, regarded as questionable by the ASBSU Judiciary, were: (1) Be in good moral standing, exhibiting a lifestyle that is worthy of a Christian; (2) A Biblically compatible lifestyle; and, (3) Reference to *Matthew 18: 15-17*, which may cause CM members to treat others as "pagans." (See attached.) He also presented an opinion from the office of Idaho's Attorney General. (See attached.)

In response to questions from the committee, **Sen. McKenziesaid** designation of religious groups has been clarified by the U.S. Supreme Court as "free to function as a religion, unless the group advocates the breaking of law". He reported, presently at BSU, the constitutional requirements for leaders of some religious groups must be changed or they will be eliminated from campus. He noted the national organizations are not a part of the debate. He said, there is no loyalty oath, only a statement of belief and an agreement to live in accordance to the guiding documents of the organization.

MOTION: **Rep. Bateman** made a motion to send **S 1078** to the floor with a **DO PASS** recommendation.

Bruce D. Skaug, attorney, testified **in support of S 1078**. He explained his ties to Idaho, and his travels to Asia where he had witnessed bad government and unjust treatment of Christians. He cited religious freedom and freedom of speech as rights being challenged by the ASBSU. He said **S 1078** is needed to prevent arbitrary attacks on student religious groups. He testified the legislation will prevent public universities from discriminating against religious groups, based on any rule, which requires the leaders to give up a sincerely held tenet of their faith. He said he agreed with the opinion from the office of Idaho's Attorney General.

Charles Skaug, Jesse Barnum, Kyle Clifton, Nate Jansen, Kayla Cuvelier, Sam Kelly and Nathan McIndoo, citizens, testified **in support of S 1078**. They cited their ties to the religious organizations at Boise State University and their enhanced college experience because of their association with religious groups. They also told the committee their religious liberties were being challenged, and they were willing to leave the University rather than change their constitution and bylaws.

Monica Hopkins, ACLU of Idaho, testified **in opposition to S 1078**. She indicated the legislation seeks state sponsored preferential exemptions for religious student organizations. She cited the U.S. Supreme Court findings in the *Christian Legal Society v Martinez* (2010). She said the Court held that religious student clubs, receiving public funds, do not have a right to an exemption from nondiscrimination policies. She testified that official recognition on campuses means access to student funds compelled by state statute. She said many campus organizations thrive without the use of public funds. She supported ASBSU's Judiciary decision, and said **S 1078** may allow a religious student organization to discriminate against race, age or disabled students.

Joe Stegner, University of Idaho, Special Assistant to the President for State Governmental Relations, testified **in opposition to S 1078**. He stated that the University of Idaho has 200 clubs on campus. He said their policy is to get the clubs established and leave them alone. He said the legislation is a "solution looking for a problem." He related his concern for the precedence being set by **S 1078**.

To a question from the committee regarding the conceivability of persons infiltrating and overpowering the values of a student group, **Mr. Stegner** stated it may be conceivable; however, in his opinion, the students of like mind would leave the organization, regroup and create another club.

MOTION: **Rep. Boyle** called for the question. **Motion carried by voice vote.**

VOTE ON THE MOTION: **Chairman DeMordaunt** called for a vote on the motion to send **S 1078** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Pence, Kloc and Ward-Engelking** requested to be recorded as voting **NAY**. **Rep. Bateman** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 10:54 a.m.

Representative DeMordaunt
Chair

Jean Vance
Secretary