

MINUTES
SENATE EDUCATION COMMITTEE

- DATE:** Wednesday, January 18, 2012
- TIME:** 3:00 P.M.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Goedde, Vice Chairman Mortimer, Senators Andreason, Pearce, Fulcher, Winder, Toryanski, Malepeai, and LeFavour
- ABSENT/ EXCUSED:**
- 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.
- MINUTES:** **Chairman Goedde** called the meeting to order at 3:15 PM. He passed the gavel to **Vice Chairman Mortimer** who proceeded with further review of the rules.
- Senator Andreason** asked if the House had taken action on **Docket 08-0203-1102**. **Chairman Goedde** said that it would be in front of the House committee January 19, 2012.
- DOCKET 08-0203-1102** Continuation from yesterday's meeting. **Superintendent Luna** responded to the question posed by **Chairman Goedde** regarding opposition to the part of the rule as it pertains to asynchronous courses and whether or not if that portion was removed would Meridian School District, Boise School District and the Idaho School Board Association support the two online required credits. They confirmed support. **Chairman Goedde, Don Soltman** and **Superintendent Luna** are agreeable with removing the asynchronous courses. **Dr. Linda Clark** submitted a written comment in support. **Superintendent Luna** requested the committee approve the rule as written with the understanding that the State Board will remove the asynchronous requirement in February.
- TESTIMONY:** **Janet Orndorff**, trustee with the Boise School District, **Karen Echeverria**, Executive Director with the Idaho School Boards Association, **Rob Winslow** with the Idaho Association of School Administrators, all testified that their respective organizations stand in support of the changes proposed by **Superintendent Luna**.
- Chairman Goedde** reaffirmed being a strong proponent of the changes. In addition, he stated that Dr. Charleton with Idaho Digital Learning Academy (IDLA) is comfortable with the change as well. **Senator Winder** thanked **Superintendent Luna** and the various school districts for working on the issue. He requested that the rule as written be approved today with the understanding from **Superintendent Luna** that the State Board will remove the asynchronous requirement in February.
- MOTION:** **Senator Andreason** moved, seconded by **Senator Pearce**, that the Committee accept **Docket 08-0203-1102** with the understanding that the State Board will propose a new temporary rule that will remove the asynchronous requirement. The motion carried by **voice-vote**. **Senator LeFavour** requested that she be recorded as voting nay.
- DOCKET 08-0203-1101** **Luci Willits** introduced **Docket 08-0203-1101** regarding final approval on ISAT. This is for the one percent of the population of students who are unable to take the standardized test. No public comments on this rule.
- MOTION:** **Senator Winder** moved, seconded by **Chairman Goedde**, that the Committee accept **Docket 08-0203-1101**. The motion carried with **voice-vote**.

**DOCKET
08-0203-1103**

Luci Willits introduced **Docket 08-0203-1103** which addresses two areas: (1) the requirement for all juniors to take a college entrance exam and (2) direct writing and direct math assessments. Only four comments were received from the public and there are no outstanding issues. **Ms. Willits** stated that for districts who write their own tests, there are "item banks" being utilized. **Senator LeFavour** sought clarification on the kind of writing assessments available. **Ms. Willits** stated the next generation of ISAT will include a writing assessment, but at this point there is not one. **Senator Toryanski** sought clarification on "no issues" with the rule. **Ms. Willits** read the comments to the committee.

Senator LeFavour sought clarification on the reason why the writing assessment requirement is being dropped. **Ms. Willits** stated the reasons were (1) financial, (2) the test wasn't being used in a way to guide instruction, and (3) removing this as a statewide requirement does not mean districts cannot do this on their own.

MOTION:

Chairman Goedde moved, seconded by **Senator Fulcher**, that the Committee accept **Docket 08-0203-1103**. The motion carried by **voice-vote**. **Senator LeFavour** requested that she be recorded as voting nay.

**DOCKET
08-0203-1104**

Luci Willits introduced **Docket 08-0203-1104** which clarifies the dual credit program. This rule clarifies who has to take the college entrance exam, in addition to adding a test option for Accuplacer. Also, if a student finishes their high school class requirements, they can take up to 36 college credits during their senior year and the state will pay for it as part of dual enrollment. Some legislation will be forthcoming regarding dual credit program.

MOTION:

Senator Andreason moved, seconded by **Senator LeFavour**, that the Committee accept **Docket 08-0203-1104**. The motion carried by **voice-vote**.

**DOCKET
08-0201-1101**

Luci Willits reintroduced **Docket 08-0201-1101**, which was previously discussed in committee on January 11, 2011. The committee had decided to hold further discussion on it once the opinion from the Attorney General was reviewed.

TESTIMONY:

Paul Stark, General Counsel for the Idaho Education Association, reviewed the Attorney General's opinion; however, he has not reviewed the attorney opinion from the School Board Association that was to be provided. **Chairman Goedde** stated there is not a written opinion at this point. **Mr. Stark** testified that the Idaho Code statutes and the legislature have not specifically given rulemaking authority here and as such, the rule should not go forward. An administrative rule cannot rewrite statutes. **Chairman Goedde** asked if there is any statute that provides that the State Board of Education has rulemaking authority. **Mr. Stark** cited to Idaho Code §§ 33-701, 33-105, 33-1612, but is not aware of any statute that provides the State Board of Education with the rulemaking authority granted for this rule before the committee.

Brian Kane, Attorney General's office, after hearing **Mr. Stark's** comments, is still comfortable with the analysis his department has provided the committee. **Senator LaFavour** stated it would be helpful if the committee had examples of other rules made by the State Board of Education falling outside that specific authority. **Senator Toryanski** asked if **Mr. Kane** believed he would prevail if this rule would go to the Supreme Court of Idaho, is it the Attorney General's opinion that the Attorney General's argument would prevail? **Mr. Kane** stated that while the Supreme Court is very unpredictable, it is his belief that they have plausible legal arguments that could be reasonably advanced.

MOTION:

Senator Malepeai moved, and it was seconded by **Senator LeFavour**, that the Committee reject **Docket 08-0201-1101**.

MOTION: **Chairman Goedde** made a substitute motion seconded by **Senator Fulcher** that the committee accept **Docket 08-0201-1101**. The substitute motion passed by **voice-vote**. **Senators Malepeai and Senator LeFavour** requested that they be recorded as voting nay.

Vice Chairman Mortimer returned the gavel to **Chairman Goedde**.

DOCKET **RS 20842** **Tracie Bent** introduced **RS 20842** to amend Idaho Code § 33-1002A and clarify the definition for online courses.

MOTION: **Senator Mortimer** moved, and it was seconded by **Senator Winder**, that **RS 20842** be moved to print. The motion carried by **voice-vote**.

PRESENTATION: **Tim Hill**, Assistant Superintendent, for the State Department of Education gave a presentation on Public School Funding. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment #1).

ADJOURN: **Chairman Goedde** adjourned the meeting at 5:09 PM.

Senator Goedde
Chairman

LeAnn South
Secretary

Shannon Dearing
Assistant Secretary