

MINUTES  
**HOUSE EDUCATION COMMITTEE**

**DATE:** Monday, January 30, 2012  
**TIME:** 9:00 A.M.  
**PLACE:** Room EW41  
**MEMBERS:** Chairman Nonini, Vice Chairman Shirley, Representative(s) Trail, Block, Nielsen, Chadderdon, Shepherd, Wills, Marriott, Thayn, Hartgen, Bateman, Boyle, DeMordaunt, Nessel, Pence, Chew, Cronin

**ABSENT/  
EXCUSED:** None

**GUESTS:** Rep. JoAn Wood (35); Tracie Bent, Jessica Piper, Marilyn Whitney and Mike Rush, State Board of Education (SBE); Caitlin Lavelle, Gallatin; Bryan Yankey, Idaho Business Coalition for Education Excellence (IBCEE); Karen Echeverria, Idaho School Boards Association (ISBA); Rob Winslow, Phil Homer and Harold Ott, Idaho Association of School Administrators (IASA); Bert Marley, Paul Stark, Robin Nettinga and Penni Cyr, Idaho Education Association (IEA); Camille Wells and Luci Willits, State Department of Education (SDE); Bryon Welch, Office of Performance Evaluations (OPE); Max Greenlee, Risch Pisca; Pat Brownfield and Phil Cooke, citizens

**Vice Chairman Shirley** called the meeting to order at 9:01 a.m.

**MOTION:** **Rep. Thayn** made a motion to approve the minutes of January 25, 2012. **Motion carried by voice vote.**

**MOTION:** **Rep. Chew** made a motion to approve the minutes of January 26, 2012. **Motion carried by voice vote.**

**H 406:** **Rep. JoAn Wood** presented **H 406**. She stated that school districts have offered feedback that certain information currently being transmitted is unnecessary. This bill defines the specific information that is to be conveyed between public schools associated with employee applicants. It also clarifies "provisional employment" of certificated personnel.

In response to questions, **Rep. Wood** explained that when a new employee is hired, that employee signs a release allowing the transfer of information. She stated that if an allegation is brought against an employee, the Professional Standards Commission will determine whether those allegations can be substantiated. If the allegations are proven to be false, the record of those allegations will be removed from the employee's file.

**Vice Chairman Shirley** turned over the gavel to **Chairman Nonini**.

**Karen Echeverria**, Idaho School Boards Association (ISBA), testified in favor of **H 406**. She stated that when new legislation is implemented, there can be a need for improvement. The ISBA supports clarifying procedures that were put into place last year.

**Ms. Echeverria** responded to questions, stating that when a school district hires a new employee, a new background check is instituted. The ISBA believes that a time period of thirty days provides enough time to make hiring decisions. If a complaint is brought against an employee, the Professional Standards Commission (PSC) reviews the complaint. It is ultimately the PSC's decision to take action against the employee if the complaint is found to be true. If the complaint is substantiated, a copy of it will remain in the employee's personnel file and will follow that employee. If the complaint is not substantiated, it will be removed. The ISBA would be open to an amendment to **H 406**, changing the length of time for hiring decisions. She stated that she is not aware of any districts failing to transfer required information, however, information might not have been transferred within the specified time period. Certain information is not allowed to be transferred due to federal privacy regulations, but it is being transferred at this time due to legislation that was enacted by the Idaho Legislature during the 2011 Legislative Session. Certain other information is unnecessary for new hiring districts to receive and is redundant.

**Rob Winslow**, Idaho Association of School Administrators (IASA), testified in favor of **H 406**. He stated that streamlining information provides administrators with only pertinent information during the hiring process.

**Paul Stark**, Idaho Education Association (IEA), testified in opposition to **H 406**. He stated that this would expand the job of the Professional Standards Commission (PSC). He objects to the insertion of the term "misconduct", which he states is undefined and can be widely interpreted. He also objects to language stating "regardless of whether or not the employee has notice of the existence of such documentation" as it relates to employee files and the information contained therein. He is concerned about involving third parties before decisions have been made by the PSC, because the dissemination of information may be stigmatizing for employees and then later be found to be without foundation. He is also concerned that rebuttal letters are not included in the list of documents that must be sent between districts. He objected to new language requiring allegations to be proven false or untruthful before those allegations can be removed from an employee's record. He stated that the reporting of prior allegations should have a cutoff date, and the word "pending" is vague.

In response to questions, **Mr. Stark** said that the State of Idaho should have faith in the PSC, however, allegations against employees do not go directly to the PSC. He stated that the term "misconduct" could be defined in rule. He believes that the term "unethical practice" is concrete, while the term "misconduct" is vague and could mean different things to different people. He is concerned that unsubstantiated allegations could follow employees who are seeking employment in new districts, and could cause them professional harm. He acknowledged that a screening mechanism exists to weed out frivolous claims against employees, however, he does not believe that it affords employees enough protection because of the reporting that has to occur before determinations are made. He stated that background checks are necessary, however, when an applicant submits to a background check, he or she is aware of what will be discovered. One concern he has with this legislation is that unknown items will be secretly forwarded during an application process.

**Christina Linder**, State Department of Education (SDE), stated that in her position as Chief Certification Officer, she errs on the side of caution and appreciates having all the available information. In response to questions, she stated that the current Code of Ethics requires some clarification, and the term "misconduct" will also need to be fully defined in rule.

**Mike Rush**, State Board of Education, responded to questions. He stated that if there was an allegation of misconduct, a definition would have to be agreed upon before the truth of the allegation could be determined. The definition would need to be standardized and would apply to all cases.

**Rep. Wood** stated that some criticisms being offered today are actually criticisms of existing language and not of any changes that are being proposed in **H 406**. She stated that a lack of definition for "misconduct" is to allow the PSC to determine if a teacher has acted improperly. She quoted a section of the law in question that guarantees accused persons the opportunity to be aware of charges, to submit materials, and to rebut charges in writing.

**Karen Echeverria**, Idaho School Boards Association (ISBA), stated that rebuttals are part of evaluations. They are not specifically mentioned because they are part of a whole that is mentioned. Employees have a right to request to view all items that will be, or have been, forwarded to other districts.

**MOTION:**

**Rep. Hartgen** made a motion to hold **H 406** in committee.

**Rep. Hartgen** spoke to his motion, stating that there are multiple pieces of this legislation that need to be separated. The first is to define "misconduct", the second is temporary contracts, and the third is items that are specifically required to be forwarded.

**Rep. Marriott** stated that he will support the motion. He said that issues need to be dealt with before the committee can move forward.

**Rep. Trail** stated that he will support the motion. He said that refining the bill will make it a better piece of legislation.

**Rep. Nielsen** stated that he sees problems with language and timeframes.

**SUBSTITUTE MOTION:**

**Rep. Wills** made a substitute motion to hold **H 406** to time certain, Monday, February 6, 2012.

**Rep. Wills** spoke to his motion, stating that there is validity to the concerns that have been raised, however, the legislation can be adjusted within a one week time period.

**Rep. Wood** stated that she would welcome input into making changes to the bill.

**Chairman Nonini** stated that unless the committee wants to take **H 406** to the floor with amendments, this legislation will probably come back to the committee as a new RS.

**Rep. DeMordaunt** stated that this legislation is already good. He does not have qualms about pushing it forward today, but will be happy to hear it again in one week.

**Rep. Chew** stated that she would like all of the agencies involved to collaborate if there is a new RS introduced to the committee.

**Rep. Chadderdon** stated that this legislation deals with the school districts and their input should be considered. She supports the substitute motion.

**VOTE ON SUBSTITUTE MOTION:**

**Chairman Nonini** called for a vote on the substitute motion to hold **H 406** in committee until Monday, February 6, 2012. **Motion carried by voice vote.** **Reps. Hartgen** and **Marriott** requested to be recorded as voting **NAY**.

**Chairman Nonini** announced that due to time constraints, **H 382** and the presentation from the State Board of Education will be rescheduled to a later date.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 11:00 a.m.

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Representative Nonini  
Chair

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Mary Tipps  
Secretary