

MINUTES  
**HOUSE EDUCATION COMMITTEE**

- DATE:** Thursday, February 23, 2012
- TIME:** 8:30 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:** Representative Wood (35); Karen Echeverria and Jess Harrison, Idaho School Boards Association (ISBA); Tamara Baysinger, Tracie Bent and Mike Rush, State Board of Education (SBE); Anne Ritter, Professional Standards Commission (PSC); Rob Winslow, Harold Ott and Phil Homer, Idaho Association of School Administrators (IASA); Paul Stark and Bert Marley, Idaho Education Association (IEA); Luci Willits, State Department of Education (SDE); Max Greenlee, Risch Pisca; Jane Wittmeyer, Coalition of Idaho Charter Schools
- Chairman Nonini** called the meeting to order at 8:30 a.m.
- RS 21329:** **Rep. Hartgen** presented **RS 21329**. He said that currently there are students who live in Idaho's border communities who attend public schools outside the State of Idaho. He referenced Elko County School District, who last year charged Idaho approximately \$12,245 per student. This proposed legislation seeks to solve this problem through securing additional funding that can be used for busing students to Idaho schools, or as leverage in discussions with out-of-state districts.
- MOTION:** **Rep. Boyle** made a motion to introduce **RS 21329**.
- In response to questions, **Rep. Hartgen** said that this legislation seeks to secure additional funding to allow Idaho's students to be bused to schools in Idaho, or to negotiate for a lower fee agreement with out-of-state schools.
- VOTE ON MOTION:** **Chairman Nonini** called for a vote on the motion to introduce **RS 21329**. **Motion carried by voice vote.**
- RS 21365:** **Tamara Baysinger**, State Board of Education (SBE), presented **RS 21365**. This is a rewrite of **H 533**, which contained a typo. This proposed legislation would make a number of minor amendments to section 35-5208, to establish more practical timelines for public hearings and to clarify that the full record will be considered by a hearing officer in the event of an appeal regarding the denial of a charter petition. It would also clarify the State Department of Education's role in providing technical assistance to petitioners and public charter schools. It would restructure the flow of information within the chapter, remove redundant and outdated language, and make corrections to grammar and verbiage.
- MOTION:** **Rep. Nielsen** made a motion to introduce **RS 21365**. **Motion carried on voice vote.**
- RS 21333:** **Rep. Thayn** presented **RS 21333**, which defines fractional attendance. Currently attendance is based on zero, half, or full day attendance. This new legislation will assist in counting students who attend a combination of programs, such as home school students who attend one or more classes at a traditional brick and mortar school.

**Rep. DeMordaunt** stated that a task force has been looking at how to count average daily attendance (ADA), and has considered counting credits as an alternative method.

In response to questions, **Rep. Thayne** said that a broad discussion can take place with experts if **RS 21333** is introduced.

**MOTION:** **Rep. DeMordaunt** made a motion to introduce **RS 21333**. **Motion carried by voice vote.**

**H 564:** **Rep. Wood (35)** presented **H 564**, which would provide more transparency and open communication between Idaho's public schools and the Professional Standards Commission. It would define the specific information that should be conveyed between public schools associated with employee applicants including out-of-state applicants, to stop the transfer of irrelevant information and provide greater clarity to the requirements for provisional employment. She highlighted certain functions of the Professional Standards Commission and how investigations proceed during allegations of unethical conduct.

In response to questions, **Rep. Wood** said that the definition for the word "teacher" is stated in the proposed legislation and includes administrators. Previous unethical conduct on the part of a teacher can be considered in hiring decisions. There are multiple avenues for hiring including developing new policies and bringing in an employee as a long term substitute.

**Karen Echeverria**, Idaho School Boards Association (ISBA), spoke **in support** of **H 564**. The term "unethical conduct" is used by the Professional Standards Commission, and the ISBA appreciates the bill's language being changed to reflect the same term. The ISBA also appreciates the clarity that has been added to ensure that employees are treated fairly during investigations.

In response to questions, **Ms. Echeverria** stated that school districts can decide whether to offer standard or provisional contracts. Criminal background checks are conducted on all employees during the certification process.

**Anne Ritter**, Meridian Joint School District #2 and the Professional Standards Commission (PSC), spoke **in support** of **H 564**. She outlined the duties of the Executive Committee during investigations. She stated that limited information is passed to districts during investigations.

In response to questions, **Ms. Ritter** stated that school district employees determine whether a teacher should remain in the classroom during an investigation. The Professional Standards Commission determines whether the teacher should be in any classroom in the State of Idaho.

**Rob Winslow**, Idaho Association of School Administrators, spoke **in support** of **H 564**. He stated that this legislation will simplify hiring processes and provide clarity.

**Paul Stark**, Idaho Education Association (IEA), stated that the IEA requested on three occasions to discuss the proposed legislation, which he says contains problems. He stated that the IEA was not aware of a need for these changes. He stated that this legislation "turns the legislature into a massive human resources department for school districts". He stated that there are "many fatal provisions" including the following: page five (5), lines one through four (1-4) has a "giant Mack-sized truck loophole" that does not take into account scheduled absences, and information that could potentially be put into teachers' files during those absences. With regard to page four (4), line forty-two (42), he asked how a person could sign the referenced statement. He discussed what he referred to as "the laundry list" on page five that he stated does not allow parents or other patrons to be included in forwards. He stated that asking for "any detail" to be provided to the Professional Standards Commission will increase workloads. He referenced page

six (6), line one (1), which directs the reader to Subsection eleven (11), calling it confusing. He believes that the length of time allowed for transfer of documents is too long and would prevent "the best and the brightest" from being willing to come to Idaho. He stated that there has been a sixty percent (60%) increase in teachers leaving Idaho. He stated that page six (6), lines twenty-five through twenty-seven (25-27) contains a provision about a "one in a million chance" that documents are not forthcoming and would allow a district to keep a teacher on long-term substitute pay; he said that this would be problematic for incoming teachers. If an individual "resigns under a cloud of suspicion" an investigation could be continued and would force teachers to prove their innocence. He suggested that page six (6), line thirty (30) is all that is required.

In response to questions, **Mr. Stark** stated that the IEA accepts in its entirety the changes in Section one (1) as well as the changes to the section discussing documents to be placed in files. He stated that **Rep. Wood** asked for the IEA's concerns in writing, and she addressed those concerns by making changes. He stated that he had previously requested a personal meeting, which did not take place. He said that it was "well known" that the IEA wanted to discuss the legislation. He stated that he would have said something different in person than what he said in writing. He said that comparing his previous testimony during the print hearing, during which he stated concerns about including parent comments, and his testimony today, during which he stated concerns about not including parent comments, is like "apples and oranges". He agreed that children's safety is paramount, but said that there needs to be balance; he said that the timeframe provided for transfer of information and allowing applicants to be long-term substitutes until contracts are offered creates a financial hardship for them and for their families.

In response to additional questions, **Mr. Stark** stated that stigmatizing allegations could be put in personnel files and the accused parties would be responsible for proving those allegations to be false. He said that teachers might not always be able to provide evidence that something did not occur. Section one (1) is about certification and Section two (2) is about job performance. He believes that these sections should be dealt with separately.

**Luci Willits**, State Department of Education (SDE), said that the bill is aimed at transparency, and that the goal is to protect children. She referenced a letter from **Christina Linder**, Certification Officer for the State of Idaho and Director of Certification and Professional Standards. In the letter, Ms. Linder spoke **in support of H 564**. **Ms. Willits** stated that Idaho's standards have not been as strong as those in other states. She referenced changes to the numbers of certified teachers, stating that only forty-eight (48) teachers left Idaho during 2010-2011.

In response to questions, **Ms. Willits** stated that according to the letter from **Ms. Linder**, there has been at least one case when a teacher was accused of harming a child and law enforcement was not involved.

**Karen Echeverria**, Idaho School Boards Association (ISBA), stated that a background check is done only during certification and is not done every year.

**Rep. Wood (35)** stated that on page six (6), line forty-nine (49), it states "this subsection does not restrict the expungement from a personnel file of information about alleged verbal or physical abuse or sexual misconduct that has been proven to be a false allegation or untruthful". She said that she never had a conference on the bill, but she did make changes based on testimony and she did have an informal discussion with **Mr. Stark** during which she thanked him for his written requests. The original purpose of the bill was simply to clarify the information that should be transferred between districts, and to protect Idaho's children by ensuring transparency of information. There have been concerns about buying out contacts and lawsuits.

In response to questions, **Rep. Wood (35)** said that if an allegation is made, complete information must be brought forward. The Professional Standards Commission is tasked with sorting out the information.

**Luci Willits**, State Department of Education, stated that under new laws, teachers who are new to the profession receive one (1) or two (2) year contracts, however, experienced teachers and administrators can be on three (3) year contracts.

**MOTION:** **Rep. Marriott** made a motion to send **H 564** to the floor with a **DO PASS** recommendation.

**SUBSTITUTE MOTION:** **Rep. Chew** made a substitute motion to return **H 564** to the sponsor.

**Rep. Nielsen** stated that it is a well established fact that a person is innocent until proven guilty. He is concerned about the language in the legislation requiring that an accusation be proven to be false or untruthful before it can be removed from a teacher's record.

**AMENDED SUBSTITUTE MOTION:** **Rep. Nielsen** made an amended substitute motion to send **H 564** to General Orders. **Rep. Thayn** seconded the motion.

**Rep. Wills** 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 564** to General Orders. **Chairman Nonini** stated that he was in doubt about the voice vote. A roll call vote was requested. **Motion carried by a vote of 10 AYE, 8 NAY. Voting in favor of the motion: Reps. Trail, Nielsen, Chadderdon, Wills, Thayn, Boyle, Nessel, Pence, Chew and Cronin. Voting in opposition to the motion: Reps. Shirley, Block, Shepherd, Marriott, Hartgen, Bateman, DeMordaunt and Chairman Nonini.**

**H 556:** **Mike Rush**, State Board of Education, presented **H 556**, which would allow community college employees to transfer up to ninety (90) days of sick leave that they accrued at a community college to the state system if they become state employees. Currently, public school teachers have this benefit. It would also allow state employees who became community college employees with the transfer of Seland College to the College of Western Idaho and who then return to state service within three (3) years of that transfer to have any unused sick leave they had accrued at the time of the transfer reinstated.

**Luci Willits**, State Board of Education, stated that she has an employee who is affected. She **supports H 556**.

In response to questions, **Dr. Rush** said that the only transfer provision that currently exists in state law allows an employee to purchase health insurance with sick days. **H 556** would not create a liability because community college employees already participate in PERSI.

**MOTION:**        **Rep. Bateman** made a motion to send **H 556** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Chew** will sponsor the bill on the floor.

**ADJOURN:**      There being no further business to come before the committee, the meeting was adjourned at 10:23 a.m.

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Representative Nonini  
Chair

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Mary Tipps  
Secretary