

MINUTES  
**SENATE EDUCATION COMMITTEE**

**DATE:** Thursday, March 21, 2013

**TIME:** 3:00 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Goedde, Vice Chairman Mortimer, Senators Pearce, Fulcher, Nonini, Thayn, Patrick, Durst and Buckner-Webb

**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.

**CONVENED:** **Chairman Goedde** called the Education Committee (Committee) to order at 3:33 p.m., and a silent roll was taken.

**GUBERNATORIAL APPOINTMENT:** **Senator Patrick** made a motion to send the gubernatorial appointment of Kenneth Edmunds to the State Board of Education to the floor with a recommendation that he be confirmed by the Senate. **Senator Durst** seconded the motion. The motion carried by **voice vote**. **Senator Patrick** will sponsor Mr. Edmunds on the floor.

**H 259** **Karen Echeverria**, Executive Director, Idaho School Boards Association, stated that **H 259** sets out criteria for paid and unpaid leave. Currently, there is no provision in law which allows a school district to place an employee on leave without pay. Subsection 33-513(7)(a) would allow the school board to place an employee on unpaid leave if employee has a criminal court order that prevents him/her (him) from complying with their contract. Subsection 33-513(7)(b) further addresses the issue of two employees who have competing court orders that would prevent them from being in the same building. It clarifies that both employees would be placed on unpaid administrative leave. Subsection 33-513(7)(c) clarifies that if there is an internal investigation of an employee, and not one wherein a court has issued an order, then that leave will be paid. In addition, the school district has 60 working days to complete their investigation and make a decision about whether to allow the employee to begin work again or to begin termination proceedings.

**Ms. Echeverria** advised the Committee that the House had voiced concern about lost pay when an employee was found innocent of the charges against him. She said that the ISBA would work over the next year to set aside funds for that situation.

**TESTIMONY:**

**Paul Stark**, General Counsel, Idaho Education Association, IEA, testified in opposition to **H 259** for two reasons: First, **H 259** creates a situation where the employee is presumed guilty – he is unpaid, he cannot work, he cannot pay his bills – which is devastating in a small community where the school system is often the largest employer. While **Mr. Stark** empathized with the plight of the school board under the current law, wherein the school board must continue to pay a teacher during a criminal proceeding, he also felt that the school board was in a better position to handle the financial hardship than an individual with a mortgage. He suggested that an account be established where an innocent teacher could recoup lost pay. Second, **Mr. Stark** objected to **H 259** because it did not contain a sunset clause.

**Vice Chairman Mortimer** clarified that Mr. Stark's concern was only with section 33-513(7)(a) relating to unpaid leave when a court order prevented the employee fulfilling the terms of his contract. **Mr. Stark** enumerated situations when this might occur, such as an ex parte restraining order, or a preliminary injunction in a divorce context.

**Senator Nonini** questioned the suggestion of an escrow account. **Mr. Stark** replied that he envisioned that individual wages being held in an account which provides that should the employee be found innocent, the funds would be returned to him. **Senator Nonini** asked if he would support the bill if an escrow account were inserted. **Mr. Stark** replied that he would prefer a sunset clause.

**Senator Durst** commented on section 33-513(7)(b), concerning dual court orders which prevents two employees from concurrently being in the same building. He hoped that the school could find solutions other than unpaid leave, such as transferring one to another building, or performing work after school. **Senator Durst** thought that such provisions could improve the bill. **Senator Buckner-Webb** stated that, as a social worker, she had seen situations in which a restraining order denied someone access to their children for several months. Not only did the family suffer financially, but the family system suffered too. **Chairman Goedde** and **Mr. Stark** discussed the availability of language to create an escrow account. **Ms. Echeverria** stated that she would not oppose language to set aside income.

**Senator Pearce** asked Ms. Echeverria to describe what happens under the current law. **Ms. Echeverria** replied that employees are being paid while going through the court system. In one instance, a teacher was physically caught with a student. The taxpayers were "furious" to learn that the teacher was on paid leave. **Ms. Echeverria** added that while the situation does not happen often, three or four cases were active in Idaho. The school boards have called to ask if they can put the teacher on unpaid leave, but under the current law, they cannot.

**MOTION:**

**Senator Nonini** made a motion to refer **H259** to the 14th Order for amendment. **Vice Chairman Mortimer** seconded the motion. **Senator Durst** stated that he could appreciate the position of the school boards and would support the motion. **Chairman Goedde** asked Senator Nonini to work with Ms. Echeverria and Mr. Stark to work on appropriate language. The motion carried by **voice vote**.

**H 275**

**Rob Winslow**, Idaho Association of School Administrators, (IASA) stated that this legislation renews public schools' "use it or lose it" flexibility in staffing certificated positions. It allows districts to employ 9.5 percent fewer positions without a consequent reduction in the number of funded positions being imposed.

**Senators Thayne, Patrick** and **Nonini** asked clarifying questions. **Chairman Goedde** remarked that **H 275** allows the same flexibility at the same percentage as the previous year.

**Senator Durst** asked Mr. Hancock to discuss the number of districts, and whether or not a demographic pattern emerges. **Mr. Hancock** yielded to Mr. Wilsow for the answers. **Mr. Winslow** stated that about 80 districts were using the program, including small districts and large ones. For example, the Boise School District does not use it, but the Meridian Joint School District does. The numbers do not suggest a pattern.

**MOTION:** **Senator Thayn** made a motion to send **H 275** to the Senate floor with a **do pass** recommendation. **Vice Chairman Mortimer** seconded the motion. In discussion, **Senator Durst** stated that he would vote no, stating that while schools need more flexibility, he fears that this legislation would lead to larger classroom sizes. The motion carried by **voice vote**. **Senator Durst** voted nay. **Senator Thayn** will carry the bill on the floor.

**PASSED THE GAVEL:** **Chairman Goedde** passed the gavel to Vice Chairman Mortimer in order to present the next bill.

**H 65** **Chairman Goedde** explained that **H 65** would return the school districts to the position they had when they formed their budgets for fiscal year 2013 (FY13). This legislation addresses problems created in the FY13 budget by the November 2012 repeal of S 1108, 1110, and 1184. Based on the repeal, public schools would receive over \$30 million less in FY13 than they had budgeted for, and would create hardship in meeting their contractual obligations. The legislation does not require that the FY13 budget be re-opened. The public schools would receive all expected funds, based on the FY13 original appropriation for FY13 only. Some monies would be shifted.

**PASSED THE GAVEL:** Seeing no questions from the Committee, **Vice Chairman Mortimer** declared Chairman Goedde "done!" and passed the gavel back to the Chairman.

**MOTION:** **Vice Chairman Mortimer** made a motion to hold **H 65** at the call of the chair. **Senator Nonini** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** Having no further business before the Committee, **Chairman Goedde** adjourned the meeting at 4:25 p.m.

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Senator Goedde  
Chairman

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Elaine Leedy  
Secretary