

MINUTES
(Subject to Approval by the Committee)
Education Working Group
Tuesday, July 21, 2020
10:00 A.M.
EW20 (Remote Electronic Meeting Only)
Boise, Idaho

Co-Chair Mortimer called the meeting to order at 10:03 a.m.; a silent roll call was taken.

Members in attendance: Co Chairs Dean Mortimer and Lance Clow; Senators Steven Thayn, Chuck Winder, Lori Den Hartog, Carl Crabtree, Jim Woodward, Dave Lent, Cherie Buckner-Webb, and Janie Ward-Engelking; Representatives Ryan Kerby, Judy Boyle, Ron Mendive, Gayann DeMordaunt, Dorothy Moon, Barbara Ehardt, Bill Goesling, Gary Marshall, Jerald Raymond, Tony Wisniewski, John McCrostie, Chris Abernathy, and Steve Berch. Absent and excused: Representative Paul Shepherd. Legislative Services Office (LSO) staff present: Elizabeth Bowen, Shelley Sheridan, Soren Jacobsen, and Ana Lara.

Other attendees: Marilyn Whitney and Tim Hill, State Department of Education; Debbie Critchfield, Tracie Bent, and Matt Freeman, State Board of Education; Quinn Perry and Karen Echeverria, Idaho School Boards Association; Andrew Grover, Idaho Association of School Administrators; Layne McInelly and Matt Compton, Idaho Education Association.

Co-chairs Mortimer and Clow welcomed the joint committee and provided guidelines for conducting the meeting by videoconference.

Agency and Stakeholder Reports

State Department of Education

Marilyn Whitney, Deputy Superintendent for Communications and Policy, reported on the challenges facing the education system in safely reopening schools. The challenges due to the pandemic included topics such as cleaning protocols, personal protection equipment, staffing for social distancing, safe use of cafeteria, bussing, and use of playgrounds. She stated that educators, administrators, and stakeholders request changes be made that are necessary to help schools get through this challenging time and not make policy or funding changes that would pose additional challenges. Districts need flexibility to manage budgets including flexibility on line items, decreasing use or lost it percentage, and suspending the maintenance match. She added that districts have budgeted according to the Governor's recommended 5% hold back and that changing direction would be disruptive. Federal relief funds are critically important to fill the funding gap, but would not provide ongoing support. She reported that the hold back totaled \$98.7 million in general , and the Cares Act funding totaled \$91.2 million, a significant amount of that focusing on technology and related expenses. The Governor's Digital Divide Task Force estimated one-time funding of \$77 million to close the divide and \$63-74 million in ongoing funding for sustainability. Ms. Whitney reported that the hold back reduced technology funding and impacted professional development and teacher salaries, and that transportation needs will likely increase. Issues for the committee to consider include liability, parent and student involvement and blended learning, special education challenges, teacher certifications, emotional health and well being of students and staff, and attendance tracking and reporting.

Tim Hill, Associate Deputy Superintendent, reported on the challenges of students going to and from brick and mortar and online settings and measuring daily attendance. A temporary/proposed rule was adopted to allow enrollment based attendance that allows minutes per week. He stated that time enrollment was about 1% more compared to average daily attendance, which would have a

fiscal impact of roughly \$19 million. Mr. Hill stated that the Legislature could revenue neutralize that affect by creating support units in the table divisor.

Idaho State Board of Education

Debbie Critchfield, President, reviewed [legislative ideas](#) for the upcoming legislative session, six directly relate to the 2019 Governor's "Our Kids, Idaho's Future Task Force". Those ideas include defining *Salary Schedule*, career ladder endorsements, administrator evaluations, Board of Trustee training, consolidating statutory requirements for literacy intervention, funding, local and district flexibility, renewable contracts, professional endorsements, transportation, and college tuition cap.

Ms. Critchfield advised the committee of [temporary and proposed rules](#) relating to reimbursable mileage, average daily attendance reporting, professional endorsement, vacate chapter relating to seed certification standards, and clarification of federal requirements of vocational rehabilitation program. She noted that the rule related to vocational rehabilitation does not apply to the extended employment service program. Ms. Critchfield added that the board intends to submit seven rules for the 2021-2022 rule cycle.

Idaho School Boards Association

Quinn Perry, Policy and Government Affairs Director, reported that the least amount of disruption and big change from the Legislature would be critical to school districts. Key issues for the committee include professional development focusing on conducting and implementing safety and health protocols, resources for educators for online settings, funding challenges that include costs related to cleaning and implementation of personal protection equipment protocols, health screening tools, implementation of nurse-like guidelines, staffing issues including substitute teachers, ADA protection, and parent and student involvement. Ms. Perry stated that liability was also a concern and referenced notices sent by insurance providers stating that liability protection did not include airborne viruses. Districts were seeking protection from COVID-19 related lawsuits. Transportation was also a key issue and noted that a bus typically seats 81, but can seat only 12 with social distancing. She added that multiple pickups were likely. Ms. Perry thanked the State Board of Education for its flexibility on transportation, which has been critical during the pandemic. She concluded by stating that communication and collaboration will be critical for student success.

Idaho Association of School Administrators

Andrew Grover, Ed.D., Executive Director, reported on the [concerns with reopening schools](#) in the fall. Mr. Grover noted liability concerns and recommended legislation that would enhance liability protections. He recommended the work group review a bill recently passed in Utah related to liability issues. Mr. Grover stated that spending flexibility, ADA and use it or lose it clause protection, and transportation were issues to consider. Mr. Grover recommended legislation giving school boards the authority to close school and clarify that the closure would apply to the physical building. Mr. Grover concluded by adding that assessments and accountabilities needed to be in place to make sure students were growing and learning.

Idaho Education Association

Layne McInelly, President, reported that the primary concern was protecting the lives of students and educators. Circumstances have made it impossible for schools to open safely and effectively, and that teachers must be considered essential workers if opening schools is essential. He stated that teachers are not willing to put their lives at risk and are concerned with the districts' ability to keep them safe, causing some to consider early retirement. This could result in a shortage of teachers, when they are needed the most, putting substitutes at a premium. Mr. McInelly noted that returning students to a stable school environment was best, but questioned the commitment of districts to providing a stable environment and offering physical protection to the students and workers. He noted shortages of school counselors, nurses, and health care professionals. He stated that Idaho was at a crossroads - the inability to slow the growth of a deadly virus and public schools

that have been starved of resources. Mr. McInelly stated that the challenges of the COVID crisis include the need for more resources, nurses and counselors, transportation, staff for social distancing and cleaning, and more teachers and asked how that could be achieved with slashed school budgets. Districts are struggling to pass levies and reluctant to tap into rainy day funds. Mr. McInelly added that legislation is crucial to provide flexibility in attendance, grading, testing, and teacher evaluations. He concluded that a shared commitment, additional resources and personnel, patience and flexibility, and a prioritization of the safety of Idaho students and educators was needed.

Discussion

Senator Thayne expressed concern with schools not opening or opening on a limited basis. He stated that the current education system is not designed to keep students at home and recommended addressing the needs of the parents and students and providing resources. He asked Ms. Whitney for the status of the potential rule change related to the definition of course and unit of instruction. Ms. Whitney responded that the rule was based on information districts were already reporting and based on the time it takes a student to complete the average course, not seat time.

Senator Ward-Engelking expressed concern of losing skilled teachers because for one year they were unable to be physically in the classroom due to health concerns. She suggested using CARES money for sabbaticals for teachers and have their education component be online, she asked if additional CARES money could be requested to compensate educators for performing additional tasks like cleaning and sanitizing, and suggested that property and sales tax relief money be put into education funding or into the sales tax money and go to the general fund.

Representative Goesling asked how fall sports were being addressed by the Idaho Athletic Association and suggested the group discuss the problems associated with families with dual earners and providing assisting to those students. Ms. Perry responded that the IHSAA recently issued guidance relating to athletics and activities. Ms. Perry will provide that information to the group.

Senator Den Hartog asked Mr. Hill to clarify the 1.1% more to change to enrollment versus attendance formula. Mr. Hill responded that he was previously comparing enrollment to average daily attendance without considering that enrollment was counting a kindergarten nose with a full time enrollment with half-time ADA. Co-chair Mortimer requested Mr. Hill's explanation in writing with more detail.

Senator Den Hartog expressed the need for a dual track and to consider the needs of parents and students. She asked the group to consider if there needed to be more flexibility in teacher contracts.

Co-Chair Mortimer recommended stakeholders respond to questions and comments in writing.

Senator Winder expressed the need for more technology and asked stakeholders if there was a plan to deliver education and the cost. He noted concern that students could miss educational opportunities if they are not connected. Senator Winder asked how that would be dealt with from a funding and operational standpoint. Ms. Whitney responded that the superintendent was working with the state board to make sure there is a blended learning plan that allows schools to deliver hybrid instruction and that meets the needs of students. Ms. Critchfield added that the digital divide committee had not completed their work and recommendations would be forthcoming. She added that it could not be solved solely by government and will need to be a statewide effort.

Co-Chair Clow reported that the Attorney General's Office was asked to interpret the ICRMP letter regarding their position that they have no liability in COVID cases. He asked if stakeholders had any legal analysis done. Karen Echeverria, Executive Director, Idaho School Boards Association, responded that the board was advised by an attorney that ICRMP was within their bounds. She added that the National School Boards Association also agreed that insurance companies are not liable.

Representative Kerby asked if emergency credentials was considered and if they were easy to obtain. Ms. Whitney responded that there was flexibility for teachers to return to the classroom and the

process was easy. Representative Kerby asked about liability and how it related to athletics, as well as the health districts' ability to close down schools. Ms. Perry responded that every district is evaluated individually and referenced the IHSAA guidance. She added that Idaho Code Section 33-512(12) states that extra-curricular activities are not deemed a necessary component of public education. Ms. Perry added that health districts would prefer having a more advisory role; however, decisions are made that are appropriate for the community. Mr. Grover agreed and added that most Treasure Valley districts submitted plans to the health departments when it was not required. He stated that it would not require much change to give health districts more of an advisory role and leave it up to school board members to close schools.

Senator Thayne asked how funding at 100% could be justified if 30% of kids are at home.

Co-Chair Mortimer stated that the Pro Tem has directed the group to consider statutory changes that may better assist public school districts in providing education services, to consider the health and safety of the public, education needs of students, flexibility to adjust to budget changes, and the legislature's role in the process. Additionally, the work group should also evaluate if a special session would be needed to consider the group's recommendations.

Co-Chair Clow suggested prioritize and focus on urgent topics. Co-Chair Mortimer asked the group to e-mail topics for the next meeting.

Representative Kerby suggested members work together and share drafts of legislation to prevent duplication.

Representative DeMordaunt urged the group to be mindful of the roles of the Legislature and the executive branch when addressing issues.

Representative Berch asked what the estimated cost was to reopen schools safely and by addressing concerns. Ms. Perry responded that the IASA estimated \$1.7 million for an average school district in Idaho to reopen with all the health and safety protocols.

Representative Kerby stated that the Governor requested an RS. He recommended the committee be as prepared as possible for the Governor to call a special session. Co-Chair Clow noted that LSO would not produce an RS unless in session and the most that could be shared was a draft. He recommended drafting legislation as soon as possible. Senator Winder confirmed that the Governor requested an RS and asked LSO to confirm when an RS could be prepared. Ms. Bowen clarified that LSO would not prepare an RS until in session; however, legislation could be drafted so an RS could be produced in time for session. She added that LSO would need to know if there was going to be a special session first. Co-Chair Mortimer requested Senator Winder clarify with the Governor that the group could not provide an RS, that legislation would be in draft form, and request that the Governor respond at that point. Ms. Bowen noted that a draft was identical to an RS. Senator Winder commented that it would be appropriate to clarify with the Governor. He reiterated that the Governor requested an RS and assurance that it would pass both bodies before a special session was called. Senator Winder will clarify with the Governor's Office and report back to the group.

Senator Lent asked if each member should work on their own legislation if related to the same topic. Co-Chair Mortimer clarified that all drafts would be reviewed by the co-chairs, and recommended working together to consolidate ideas.

Mr. Freeman noted that the Judiciary and Rules Interim Committee has also asked stakeholders to speak on the liability issue.

The secretary will poll the members for dates available for the next meeting.

Co-Chair Mortimer adjourned the meeting at 12:06 p.m.