

MINUTES

January 27, 2006

Minutes of the legislative meeting of the State Board of Education held January 27, 2006, at the State Capitol Complex, Salt Lake City, Utah. Meeting commenced at 10:10 a.m. Debra G. Roberts, Chairman of the Law and Policy Committee presided.

Members present were:

- Chairman Kim R. Burningham
- Member Tim Beagley
- Member Laurel Brown
- Member Mark Cluff
- Member Bill Colbert
- Member Edward A. Dalton
- Member Greg W. Haws
- Member Randall A. Mackey
- Member Debra G. Roberts
- Member Gary C. Swensen

Members Dixie Allen and Teresa L. Theurer participated via teleconference.

Vice Chairman Janet A. Cannon and Members Bonnie Jean Beesley, Thomas Gregory, Richard Sadler, and Sara Sinclair were excused.

Also present were:

- Executive Officer Patti Harrington
- Associate Superintendent Myron Cottam
- Associate Superintendent Patrick Ogden
- Associate Superintendent Raymond Timothy
- Executive Director, USOR, Blaine Petersen
- Board Secretary Twila B. Affleck

Members of the Press:

- Cecilia Baker, Salt Lake Tribune
- Jennifer Toomer-Cook, Deseret Morning News
- Lynze Wardle, Standard Examiner
- Shirley Ririe, POPS Organizations
- Dave Moss, Utah Charter School Board
- Ben Lieshman, Legislative Fiscal Analyst
- Julie Adamic, Utah Charter School Board
- Kim Frank, Utah Charter School Association
- Steve Winenski, TAPS

Utah State Office of Education and Rehabilitation staff:

- Carol Lear, Law, Legislation and Educational Services Division
- John Broberg, Law, Legislation and Educational Services Division

Brett Moulding, Student Achievement and School Success Division
Gary Billeston, Law, Legislation and Educational Services Division
Carol Ann Goodson, Student Achievement and School Success Division
Russell Thelin, USOR Administration

Board Secretary Twila B. Affleck recorded the minutes.

Charter School Funding

Associate Superintendent Patrick Ogden presented the Charter School Funding Equity Proposal. (For complete details, see General Exhibit No. 9820.) He proposed we recommend to the education appropriations subcommittee that they adopt this methodology for calculating the replacement funding for charter schools. Mr. Ogden indicated that he has had conversations with representatives of the Charter School Organization, Senator Ferrin, and the Fiscal Analyst and they all seem to agree that this a correct approach.

Chairman Burningham questioned the \$1,522 compares to the state number. He questioned the rationale why it ought to compare to the local district (where the charter school is located) number instead.

Mr. Ogden responded if you compare Park City School District with Wayne District, Park City receives \$5,813 compared to Wayne at \$966. Therefore, it is proposed they would receive a state average.

Member Tim Beagley requested clarification of start up grants. He questioned if we focus on revenue rather than expenses, where do we put startup grants.

Mr. Ogden responded that the Administrative Cost Formula is in the Minimum School Program, and charter schools participate in that now, however, it does not treat them equitably as it is currently written. Therefore, there needs to be a change in the formula in the Minimum School Program so the funding is equitable to districts. This will be separate and apart, but once it is taken care of in the Minimum School Program through the formula, it will take care of the problem.

John Broberg., Executive Director of the Utah Charter School Board reported that start-up grants are from the federal government through an automatic \$150,000 for the first three years. This has changed with a new process from the federal government. We received a major start-up grant last year, but as we put it over the 29 school that qualify at this time it varies tremendously because it is now competitive. Some schools may get approximately \$100,000 and some schools will only get around \$25,000. This is what the grant readers have determined according to the criteria established by the federal government. The state, last year, felt there was some inequities and they wanted to bring that about through one year only start-up funding for first year charters. They would like to continue that for the 15 new schools we will have. This will help to compensate for the reducing federal funds.

Motion was made by Member Tim Beagley and seconded by Chairman Kim R. Burningham to recommend to the education subcommittee that they adopt this equitable funding proposal formula and that they send it forward to the executive appropriations committee.

It was noted that this will increase local funding replacement by approximately \$7 million.

Motion carried unanimously.

Budget Initiatives

Professional Outreach Program in Schools (POPS)

Ben Lieshman, Legislative Fiscal Analysts Office presented information on the separation of the Professional Outreach Program in the Schools (POPS) into an Arts program and a Science program. He indicated that the proposal to separate the Arts program and the Science program is largely administrative in nature but does achieve some potential positive outcomes: (1) The separation will provide greater visibility to the specific needs of the Arts program and the Sciences program; (2) Could allow for the creation of distinct program objectives for the individual Arts and Sciences programs; (3) separating the programs will allow the Legislature to focus appropriation increases to meet specific goals and objectives identified for the programs; and (4) Ensure that the Science programs are overseen by the Utah State Office of Education science specialist and the Arts by the art specialist.

Mr. Lieshman provided an example of the proposed break-out of the two programs. (For complete details, see General Exhibit No. 9821.)

Member Tim Beagley commented that last year there was an opinion by the Analyst that it was illegal for the legislature to line item money for one particular organization. He questioned if that opinion was now changed? Mr. Lieshman indicated it had not changed. He explained that the listing in the example was only to provide the Legislature an example of which organizations would go where under the current system. The funding would still be appropriated to the State Board of Education in the various programs of the line items for approval on how they are expended. He indicated he did not know how they intend to work this into upcoming legislation at this point.

Member Bill Colbert spoke in favor of the bifurcation, but questioned why the Leonardo on Wheels through the Utah Science Center did not receive a direct line item funding. He indicated that they go directly out to the schools, especially in the rural districts.

Member Tim Beagley questioned if this then gives the legislature the authority to enhance the sciences. Mr. Lieshman responded that it does at this time.

Chairman Kim Burningham, clarified that there are two things happening: one, the division, and two, the increase of ten percent. This appears to be a buy-off to make sure everyone feels good about the division. He questioned if the legislature does not provide the ten percent increase, will people still support the division? Mr. Lieshman responded that the science organizations would still support the division, but he has not had any contact with the arts organizations. He further indication it was being presented as a one item issue.

Chairman Burningham indicated that he supports the division, but he feels it is being accomplished with additional funding and if someone decides to lower that additional funding to both the arts and sciences the whole

approach may fall apart. He, therefore, would encourage the ten percent increase. Mr. Lieshman reported that this is something that the members of the subcommittee have thought about and also realized that many of the organizations have not received increases for several years and we are facing significant student growth and if we are going to maintain the level of service to the students it will require some type of additional funding.

Member Laurel Brown requested comment from staff on this issue.

Brett Moulding, Curriculum Director, commented that this has come to us late, after we put into place the 5% increase, the resources for including the Living Planet Aquarium and the POPS program, as well as putting in place the process for selecting these, which the Board has been involved with. It looks like one more time the line items are increased by ten percent. He indicated there are some advantages to this division, and it would be nice to see how all of the science organizations feel about this. In the past it has been an arts funding, but we have provided equity in the past. If it becomes a science and arts program he sees a division on how this is done because sciences and arts are very different. He hoped we could make it more science like, base it on performance, and delivery of services. In that regard, it is advantageous to do this. It will be painful to look at these organizations and describe exactly performance of services. We have yet to have any of these organizations reach every child in the state.

Associate Superintendent Patrick Ogden commented that from a financial management perspective, right now with both in a single line item the board, if it wanted to, could move money among the various programs or organizations. If they are separated into separate line items the board can no longer take money from one area and give it to another.

Member Ed Dalton questioned if the RFP process will go away? Mr. Moulding responded that the process would still be maintained and the proposal is for services to be delivered and not on past performance.

Carol Ann Goodson, Specialist, Fine Arts, indicated that as far as the split is concerned she has a little fear that the tendency would be to compete with one another for funding, especially when it comes to lobbying efforts. She requested that the Board hear from Shirley Ririe.

Shirley Ririe representing the POPS organizations indicated they have worked very hard with legislators this session. This move to make science separate has been lead by Senator Howard Stephenson who is very passionate about bringing equality into the sciences within POPS. The group is very compatible and we will all support one another. All of the groups are very supportive of each other. She spoke in favor of the ten percent instead of the five percent increase.

Member Randall Mackey spoke in support of the arts programs in the public schools. He voiced concern that the bifurcation is coming late and he would like more time to study it.

Motion was made by Member Randall Mackey and seconded by Member Edward A. Dalton to keep group together at this time and study the bifurcation issue at a later date, and support the increase in funding for the entire

group.

Chairman Burningham spoke in opposition to the motion, indicating you will not get the ten percent unless you do the bifurcation.

Member Bill Colbert also spoke in opposition for the same reasons, but also feeling that it is important to provide additional funding to the science programs.

Member Gary Swensen spoke in opposition with a concern that the ten percent will go away and the arts will continue to receive cuts.

Member Ed Dalton commented that art inspires science and science inspires art. This is a way for the two to come together. For an additional five percent we are risking setting all that good work back rather than advancing.

Member Tim Beagley commented that he would probably vote in opposition. If the arts organizations thought about it very long at all they would oppose it vehemently because this year they will get their ten percent and next year they will get nothing and the science organizations will get another ten or twenty percent. Science without creativity is nothing. When they cut the arts what happens is it will hurt the sciences as well because we will end up with money for scientific research but no one will have the creativity to understand what they should do with that money. He feels it is counterproductive to split them.

Chairman Burningham commented that there is no stronger lobbyist group with the legislature than the arts groups.

Member Dixie Allen reminded everyone that early on the federal programs of special education and gifted were under the same auspice and were being funded the same. When gifted education was pulled from special education they lost drastically. She felt that if they are split we will lose the momentum.

Member Teresa Theurer spoke in favor of the motion with a concern about splitting the two.

Motion failed with Members Allen, Brown, Dalton, Mackey and Theurer voting in favor; Members Burningham, Beagley, Cluff, Colbert, Haws, and Swensen opposed.

Motion was made by Member Bill Colbert and seconded by Chairman Kim R. Burningham to support the separation as long as [impasses on] the ten percent funding is in place. Motion failed with Members Beagley, Burningham, Cluff, Colbert, Haws and Theurer voting in favor; Members Brown, Dalton, Mackey and Swensen opposed.

Budget Initiatives

Associate Superintendent Patrick Ogden presented the following budget initiatives:

- Recreate a Categorical Program for English Language Services
- Stabilize the Basic School Levy
- Recreate the Educational Technology Initiative (ETI)

- Dedicate a Portion of the Uniform School Fund Surplus to the Education Technology Initiative
- Make Special Needs Scholarship Funding Ongoing and Non-Lapsing
- Seek legislative approval to use unspent FY 2006 charter school startup funding for startup grants in FY 2007
- Transfer of MSP Funding for USOE Youth-in-Custody Specialist
- Compliance, Training and Support for Charter Schools

(For complete details of the Budget Initiatives, see General Exhibit No. 9822.)

Motion was made by Member Laurel O. Brown and seconded by Member Greg W. Haws to support the following budget initiatives: Recreation of a Categorical Program for Alternative Language Services, Recreation of the Educational Technology Initiative (ETI), Dedication of a Portion of the Uniform School Fund Surplus to the Education Technology Initiative, and the Transfer of the Minimum School Program Funding for USOE Youth-in-Custody Specialist.

Member Gary Swensen requested the items be separated out.

Recreate a Categorical Program for Alternative Language Services. Motion carried with Members Allen, Burningham, Beagley, Brown, Dalton, Haws, Mackey, Swensen and Theurer voting in favor; Members Cluff and Colbert opposed.

Recreate the Educational Technology Initiative (ETI). - Motion carried unanimously.

Dedicate a Portion of the Uniform School Fund Surplus to the Education Technology Initiative. Motion carried unanimously.

Transfer of Minimum School Funding for USOE Youth-in-Custody Specialist. Motion carried unanimously.

Motion was made by Chairman Kim R. Burningham and seconded by Member Bill Colbert to adopt the Stabilization of the Basic School Levy, Make Special Needs Scholarship Funding Ongoing and Non-Lapsing and Seek legislative approval to use unspent FY 2006 charter school startup funding for startup grants in FY 2007.

Member Laurel Brown requested the motion be separated.

Stabilize Basic School Levy - Member Mark Cluff indicated he did not feel we are ready at this time to take a position. He would like to see it go back to the finance committee. The issue is that basically we are approving a tax increase and he would like to make sure, if we do this, we are doing it for the right reason.

Motion was made by Member Tim Beagley to table the motion for now. Motion carried with Members Allen, Beagley, Brown, Cluff, Colbert, Dalton, Haws, Mackey, Swensen and Theurer voting in favor; Member Burningham opposed.

Special Needs Scholarship Funding - Motion carried with Members Allen, Beagley, Burningham, Cluff,

Colbert, Dalton, Haws, Mackey, Swensen and Theurer voting in favor; Member Brown opposed.

Seek legislative approval to use unspent FY 2006 charter school startup funding for startup grants in FY 2007. Motion carried unanimously.

Compliance Training and Support for Charter Schools - Motion was made by Member Mark Cluff and seconded by Chairman Kim Burningham to support. Motion carried unanimously.

Motion was made by Member Teresa L. Theurer and seconded by Member Mark Cluff to change order of discussion of the bills. Motion carried unanimously.

Board Legislative Positions

HB 151 - Adjustments in Funding for Concurrent Enrollment - Motion was made by Chairman Kim R. Burningham and seconded by Member Mark Cluff to oppose.

Chairman Burningham commented that the Governor recommended \$2 million additional dollars in his budget to support it, if this were done there would not be a need to do this bill, this bill will instead, have the students paying up to \$30 each for every hour of concurrent enrollment.

Member Theurer spoke in favor of the motion if you look at schedules of students in high school asking them to pay up to \$270 way out of line and this bill makes good education for students for those that are rich.

Member Mark Cluff, commented that in principal he is not against for the higher income, however, he is at issue for lower income students. Here we are helping minority youth with their first college classes for their families. Like to see us work in the future to maybe implement some means testing.

Motion was amended by Member Bill Colbert and seconded by Member Edward A. Dalton to add comment that we oppose and are concerned with the impact to lower income families. Motion carried unanimously.

Member Tim Beagley commented that this will throw us into the realm of fee waivers. The school would then have to come up with the money for the fee waiver.

Member Teresa Theurer clarified that a concurrent enrollment class is three credits and that would be \$90.

Chairman Kim Burningham commented that the way the bill is written the money will be given to higher education and tuition fee waivers do not apply to higher education.

Superintendent Harrington commented that the bills sponsor wants higher education to pick up the fee and to be the entity to whom one would write a check for those fees to deliberately skirt the issue of fee waivers. She indicated that there is a legal issue about this because the kids are still sitting in our high schools, heated by our utility bills, etc.

Member Dixie Allen commented that in our new state board rule we have to offer tuition fee waivers and book fee waivers under concurrent enrollment.

Member Teresa Theurer to add a comment that we support the Governor's budget.

Oppose with comments made. Motion carried unanimously.

SB 126 - Transportation of Children in K-6th Grade

Member Teresa Theurer questioned where the money will come from for this. Associate Superintendent Ray Timothy responded that there is a fiscal note attached from our office for approximately \$18 million. Originally the sponsor thought there would be no added costs.

Motion was made by Member Laurel O. Brown and seconded by Chairman Kim R. Burningham to oppose.

Member Mark Cluff commented that this brings up an issue of why we transport some kids and not others.

Why do we bus anyone?

Motion carried with Members Allen, Beagley, Brown, Burningham, Colbert, Dalton, Haws, Mackey, Swensen and Theurer voting in favor; Member Cluff opposed.

SB 72 Home School and Dual Enrollment Amendments

Member Teresa Theurer reported that this is a problem the way it is written for Utah High School Athletics Association.

Motion was made by Member Tim Beagley and seconded by Member Mark Cluff to oppose.

Member Beagley commented that he is not opposed to having students who are home schooled playing on the athletic teams if they want to and we can demonstrate they have met the eligibility. The problem is we have no mechanism to demonstrate that they have met the eligibility.

Member Cluff commented that there is already a number of home school and private school students involved in athletics and other activities and we already we have in place rules and regulations, and it is working fine. He feels this legislation is unnecessary.

Member Theurer also commented that she felt it was unnecessary.

Substitute Motion was made by Member Tim Beagley and seconded by Member Gary Swensen to take a position of unnecessary. Motion to accept the substitute motion carried with Members Allen, Beagley, Burningham, Cluff, Dalton, Haws, Mackey, Swensen and Theurer voting in favor; Members Brown and Colbert opposed.

Motion to indicate unnecessary carried unanimously.

SR2 - Encouraging Schools to Educate Children Regarding Risks

Motion was made by Member Teresa L. Theurer and seconded by Member Edward A. Dalton to oppose with comments that the State Board is in charge of curriculum and if people would like to see something like this brought forward, it be through the process of coming to the State Board and not the Legislature. Motion carried with Members Allen, Beagley, Brown, Cluff, Colbert, Dalton, Mackey, Swensen and Theurer voting in favor; Members Burningham and Haws opposed.

HB 68 - School Fee Waiver Amendments - Motion was made by Chairman Kim R. Burningham and seconded by Member Tim Beagley to support. Motion carried unanimously.

HB 30 - Emancipation of a Minor - Motion was made by Chairman Kim R. Burningham and seconded by Member Laurel O. Brown to support. Motion carried unanimously.

HJR 3 Joint Rules Resolution - Base Budget Process - No action.

HB 107 - Full Day Kindergarten - no action

HB 285 Appropriation for Highly Qualified Teachers - Motion was made by Member Edward A. Dalton and seconded by Member Mark Cluff to support. Motion carried with Members Allen, Beagley, Brown, Burningham, Cluff, Colbert, Dalton, Haws, Mackey and Swensen voting in favor; Member Theurer absent.

HB 253 - School Truancy Amendments - Motion was made by Member Edward A. Dalton and seconded by Member Laurel O. Brown to support. Motion carried with Members Allen, Beagley, Brown, Burningham, Cluff, Colbert, Dalton, Haws, Mackey and Swensen voting in favor; Member Theurer absent.

HB 310 - Beginning Teacher Induction - Motion was made by Chairman Kim R. Burningham and seconded by Member Mark Cluff to support. Motion carried with Members Allen, Beagley, Brown, Burningham, Cluff, Colbert, Dalton, Haws, Mackey and Swensen voting in favor; Member Theurer absent.

HB 98 - Beginning Teacher Enhancements - Motion was made by Member Laurel O. Brown and seconded by Member Bill Colbert to support the concept.

Member Ed Dalton spoke in favor of a support position.

Member Bill Colbert commented that if we support we should comment that it does not overlap funding for other programs.

Chairman Burningham spoke in favor of a support position because it is a concept we believe in and is part of the Quality Teacher Initiative.

Substitute motion was made by Chairman Kim R. Burningham and seconded by Member Laurel Brown to support. Motion carried with Members Allen, Beagley, Brown, Burningham, Cluff, Colbert, Dalton, Haws, Mackey and Swensen voting in favor; Member Theurer absent.

HB 260 State Office of Rehabilitation - Budget Recommendations

Blaine Petersen. Executive Director of the Utah State Office of Rehabilitation provided a brief explanation that this bill directs the Governor to include the Independent Living Centers in the cost of living calculations and then the legislature decides whether they are going to fund it. This has been done in the past by intent language but the fiscal analyst has indicated we should put it into law.

Motion was made by Chairman Kim R. Burningham and seconded by Member Mark Cluff to support. Motion carried with Members Allen, Beagley, Brown, Burningham, Cluff, Colbert, Dalton, Haws, Mackey and

Swensen voting in favor; Member Theurer absent.

HB 299 - Medical Recommendations for Children - Motion was made by Member Laurel O. Brown and seconded by Member Randall Mackey to oppose with comment that it is unnecessary. Motion carried with Members Allen, Beagley, Brown, Burningham, Cluff, Colbert, Dalton, Haws, Mackey and Swensen voting in favor; Member Theurer absent.

(For complete details of the legislative material, see General Exhibit No. 9823.)

Motion was made by Member Mark Cluff and seconded by Member Bill Colbert to adjourn.

Meeting adjourned at 11:50 a.m.