

MINUTES

February 20, 2007

Minutes of the special legislative meeting of the State Board of Education held February 20, 2007, at the State Office of Education, 250 East 500 South, Salt Lake City, Utah. Meeting commenced at 12:05 p.m. Member Debra Roberts, Chairman of the Law and Policy Committee presided at the meeting.

Members present were:

Chairman Kim R. Burningham
Vice Chairman Janet A. Cannon
Member Dixie L. Allen
Member Mark Cluff
Member Bill Colbert
Member Thomas Gregory
Member Greg W. Haws
Member Randall Mackey
Member Cyndee Miya
Member Richard Moss
Member Debra Roberts
Member Teresa L. Theurer

Member Dixie L. Allen participated via Poly Com. Members, Laurel O. Brown, Michael Jensen, Denis R. Morrill, Josh Reid, Richard Sadler, and Marlon O. Snow were excused.

Also present were:

Superintendent Patti Harrington
Deputy Superintendent Ray Timothy
Associate Superintendent Myron Cottam
Associate Superintendent Patrick Ogden
Coordinator, Government and Legislative Relations, Carol B. Lear
Board Secretary Twila B. Affleck

Board Legislative Positions

HB 164 1S - Charter School Amendments

Deputy Superintendent Ray Timothy reviewed the major changes to HB 164 - Charter School Amendments. He noted the biggest change was dealing with nepotism and ethics issues were amended out in the committee. We were asking that they add more to strengthen that piece.

Also the penalties for violations of this section. There is still a conflict on the students moving in and out of charter schools. Dr. Timothy indicated that Superintendent Harrington had presented specific examples of where she was concerned of what was happening in charter schools relative to the ethics issue. However, they did not leave this section in.

Marlies Burns, Executive Director, State Charter School Board, presented concerns from the State Charter

School Board:

- A charter school shall have a lease, lease-purchase agreements, or other contract or agreement relating to the charter school's facilities or financing the charter school facilities approved by a majority vote of its chartering entity prior to the charter school entering into the lease, agreement, or contract. - chartering entity responsibility for decision. Who is this? Is it the State Charter School Board, the State Board of Education?
- Rules requiring charter schools to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner. Concern is that local boards do not have to do this.
- Charter School Closure issue needs to be removed in its entirety and include in a State Board rule.

Member Bill Colbert suggested that the Board recommend part of this, accept the funding and put the rest into interim committee for study.

Carol Lear suggested that it would be helpful for everyone to contact their legislator relative to putting the ethics issues back into the law. She indicated that Representative Bigelow felt strongly about the conflict of interest and ethics issues. He will not give up and will try to look for language that will satisfy most.

Dr. Timothy indicated that the bill is still under draft and he would recommend a watch position and direct staff to continue to work with the sponsor on the language.

Motion was made by Member Bill Colbert to watch with specific comment: of our concerns. (1). 53A-1a-502.5, line 104 of the draft bill, concern of combined maximum number of students; and (2) There needs to be some ethics language provided in the bill, the amendment as recently adopted is contrary to good public policy.

Motion was seconded by Member Teresa Theurer and asked if the motion could be to take a position of watch and then take action on the comments individually. Member Bill Colbert agreed.

Motion to take a position of watch on the bill carried unanimously.

Motion was made by Member Bill Colbert and seconded by Member Mark Cluff that the Board's concern is the combined maximum number of students.

Chairman Kim Burningham voiced concern that there needs to be a number. Member Colbert clarified that the number in the bill does not account for growth, but a number needs to be established to provide for a reasonable amount of charter school growth.

Member Teresa Theurer indicated she agreed, we need a year or two to figure out the problems and what is going on right now in charter schools. We need to be sure we have the personnel and staff in place and to get our rules in order.

Member Mark Cluff asked that the motion be modified to include a reasonable number of up to ten charter schools. Modification was accepted by Member Colbert.

Motion provide reasonable amount of growth up to ten charter schools per year.

Discussion ensued relative to whether it should be a number and perhaps it should indicated no greater than 6,000 additional students. Members Colbert and Cluff accepted an amendment to reasonable amount of growth, no greater than 6,000 additional students.

Member Tom Gregory questioned why are we advocating the growth of charter schools to the legislature. If we have the growth concerns, we should be working to limit that growth until we get it under control.

Motion failed with Members Cannon, Cluff, Colbert, Gregory, Mackey, Morrill and Moss voting in favor; Members Allen, Burningham, Haws and Theurer opposed.

Member Randall Mackey commented that he would like it worded where the Board would have discretion, and some how the funding could be tied to the number the Board established. We are currently dealing with a lot of issues and we need to not move forward to fast until we have worked out some of the issues.

Chairman Burningham commented that whatever limit you put in the law is what you will get. He would like to see a more cautious and reasonable approach.

Motion was made by Member Richard Moss and seconded by Member Teresa Theurer to approve growth of 5,000 students for the coming year.

Member Theurer indicated she felt this was still too high.

Member Mark Cluff commented that we are talking like there are a whole bunch of problems in charter schools. He noted that there are maybe two or three that have some issues. Of the 52 charter schools the vast majority are doing great. He questioned why limit the process.

Carol Lear suggested that the Board set the number of percentage growth of the current number of students in the system.

Substitute motion was made by Member Greg W. Haws and seconded by Member Mark Cluff to provide a reasonable amount of growth as determined by the State Board of Education.

Associate Superintendent Patrick Ogden commented they put the cap in the bill in order to determine the amount of state funding that is going to be required.

Discussion ensued with regard to the numbers of students and the funding of the students.

Substitute motion carried with Members Allen, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Mackey, Morrill and Moss voting in favor; Member Theurer opposed.

Motion was made by Member Thomas Gregory and seconded by Member Randall Mackey to raise the question with the sponsor as to how the bill will handle the situation with local school boards in providing those numbers. Motion carried unanimously.

Motion was made by Member Teresa Theurer and seconded by Member Bill Colbert to include in the bill

language that allows the State Board to set up in their rules the appropriate ethics. Motion carried unanimously.

Motion was made by Member Mark Cluff and seconded by Member Thomas Gregory to recommend removal of lines 194-213 be removed and the Board be given authority to make rules on this subject.

Member Thomas Gregory proposed an amendment to the motion to include the entire section including lines 171 to 213.

Amendment to the motion was made by Member Randall A. Mackey and seconded by Member Bill Colbert to remove the language from lines 172 to 213 and change the language in lines 171 - 173 to say enrollment and transfer students shall be governed by State Board rule.

It was clarified that the Board is not the one to rewrite the bill. We are voting only on comments which is that the Board wants to write its own rule dealing with this issue.

Removing language 171 to 213 with the comment that enrollment and transfer be determined by State Board rule. Motion carried unanimously.

Motion was made by Member Randall A. Mackey and seconded by Member Teresa L. Theurer to recommend lines 306 to 309 be reexamined and either deleted or made more specific.

Superintendent Harrington noted that every year the State Office of Education requires a Comprehensive Utah Student Achievement Plan which includes the incidence of violence and other incidences' on campus, including harassment. This is also required of all charter schools as well.

Amendment was made by Member Bill Colbert to recommend that lines 306 to 309 be deleted because it is unnecessary. Amendment was accepted by Members Mackey and Theurer. Motion carried unanimously.

Motion was made by Member Teresa L. Theurer and seconded by Member Mark Cluff that we need to understand more fully what a chartering entity is. Also, wherever it states State School Board it should say State Board of Education. Motion carried unanimously.

Member Tom Gregory request from staff further information what the change to non profit corporation status means or what effect this may or may not have.

Dr. Timothy commented that this would mean there could be for profit companies coming in and running charter schools for profit. The Board has required that they be non-profit to this point so there should be a change from what we have right now.

SB 80 - Education Reform

Deputy Superintendent Ray Timothy noted that Superintendent Harrington was in the committee meeting when this was discussed and she spoke to the bill specifically of what some of the concerns were that had been expressed earlier. For example, when we were asking for help with the ELL funding, one of the Boards priorities was to establish funding for English Language Learners, to get more teachers in the classroom and providing more service

directly for students. Line 317 of the bill creates the English Language Learns Grant Program which takes the \$6.6 million the Board requested and changes the entire concept of where that money goes. It goes towards a worthy cause of establishing English Language Learner Family Literacy Centers. However, this is not the Board's budget request or priority.

Superintendent Harrington reviewed that the \$6.6 million requested by the Board would provide.

Dr. Harrington also addressed the change on Line 363 relative to class size and it has been changed and class size reduction has been pulled out entirely so it no longer ties technology to class size reduction.

Dr. Harrington further noted other amendments, one requiring a third party evaluation of the curriculum and instruction text books. The amendment will sunset the Instructional Materials Commission by 2011 with the costs borne by the publisher.

Dr. Timothy noted that with the independent evaluation of instructional materials the bill exempts charter schools from going through that same process. Dr. Harrington noted that she has suggested it be amended to include small schools across the state.

Dr. Timothy reviewed concerns with Section 155 dealing with the Instructional Technology Advisory Committee. He noted that UEN has filled this role in the past when we had ETI funding in the state. The UEN Steering Committee is made up of this basic outline. This Advisory Committee would replicate what the UEN Steering Committee is trying to do. He indicated that he and officials from UEN will be meeting with Senator Stephenson tomorrow.

Dr. Harrington noted that on Line 500 it provides \$3 million to contract or implement a system provided and developed by the private sector to gather student achievement data from multiple sources and then manage and disseminate the data This would be under the direction of the State Board of Education. She indicated that we are happy with the organizational relationship of that and happy to see \$3 million for that. However, it is one time money. We would put out requests for proposal for a data management system for which we would have one years worth of funding. The thought of the sponsor is that districts will bear the ongoing costs of licensure and relicensure thereafter. The figure he is working with is \$2 per child as he has talked with one vendor willing to apply at that cost.

Dr. Timothy noted that the Board's prior position on the bill was opposition with comment that it was the role of the State Board of Education to establish the criteria for these programs.

Motion was made by Member Teresa L. Theurer and seconded by Member Mark Cluff to keep the position of oppose and to direct staff to work with sponsor to improve the language of the bill.

Chairman Kim Burningham commented that he would like to add something specifically about the ELL element. Members Theurer and Cluff accepted this as part of the motion.

Member Mark Cluff voiced concern that there are a number of items in the bill that are pointing to a single

company, and this is a definite ethics issue with this bill.

Member Cyndee Miya commented that in an email Dr. Harrington had sent out about the money for English language learners is very critical, because the instruction has to take place. A software program or the family literacy center is not going to do it – it needs to be in class instruction. Also, on the class size with it being an unfunded mandate we need to address this. Our constituents, not only minority communities but general throughout all districts, is the need to find ways to lower class size.

Motion to continue opposition with comments carried unanimously.

SJR 11 - Resolution Providing Appointment of State Superintendent of Education

Dr. Timothy updated the Board on SJR 11 has been amended a third time and it is back to the original that the Governor Appoints the State Superintendent *with the consent of the State Board of Education*. It also takes out that the State Board is appointed by the Governor. This bill was circled yesterday.

HB 169 - Virtual Charter School; and

HB 172 - Utah K-8 Online Virtual School.

Dr. Timothy updated the Board on the status of these two bills. He indicated that HB 169 is being pushed forward and HB 172 is being held in rules committee. it should come out to the floor.

SB 81 - Home School and Extracurricular Activity Amendments

Dr. Timothy updated the Board on the status of this bill. Member Teresa Theurer encouraged board members to contact their legislators and also to urge local board members, coaches, and principals to contact their legislators on this legislation..

(For complete details of the materials presented on legislation see General Exhibit No. 10166.)

Motion to adjourn was made by Member Teresa L Theurer and seconded by Chairman Kim R. Burningham to adjourn. Meeting adjourned at 1:30 p.m.