

MINUTES

January 22, 2007

Minutes of the special legislative meeting of the State Board of Education held January 22, 2007, at the State Office of Education, 250 East 500 South, Salt Lake City, Utah. Meeting commenced at 12:00 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 Laurel Brown
Member Mark Cluff
Member Bill Colbert
Member Thomas Gregory
Member Greg W. Haws
Member Michael G. Jensen
Member Randall Mackey
Member Cyndee Miya
Member Denis R. Morrill
Member Richard Moss
Member Debra Roberts
Member Teresa L. Theurer

Members Dixie L. Allen and Teresa L. Theurer participated via Polycom. Members Richard Sadler, and Marlon O. Snow were excused.

Also present were:

State Superintendent Patti Harrington
Associate Superintendent Patrick Ogden
Coordinator, Government and Legislative Relations, Carol B. Lear
Board Secretary Twila B. Affleck

Legislation Review

Budget Update

Associate Superintendent Patrick Ogden presented a budget update including the cost of reducing class size, eliminating the Basic Rate, and Teacher Bonuses. (For complete details see General Exhibit No. 10124.)

Proposed Legislation

Carol Lear, Coordinator, Government and Legislative Relations presented the following proposed legislative bills:

Motion was made by Member Laruel O. Brown and seconded by Member Janet A. Cannon to support. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Moss, and Theurer voting in favor; Members Mackey and Morrill absent.

Representative Merlynn Newbold Proposed changes to the U-PASS Bill

Representative Merlynn Newbold reported that a committee has been meeting during the summer on U-Pass and there was some recommendations made for changes to the legislation. In addition, she has been meeting with reading teachers, specialists and experts in the field to discuss what would be the best method of determining whether or not we are reading on grade level by third grade and the best assessment tools to give us that information.

Representative Newbold reported that the language is not ready for the bill yet, but she proposed the following changes be made:

- K-3 using a formative assessment to determine efficiency and progress of each student. These tests will be administered individually, be more useful in the classroom and help direct instruction. They will also be informative to parents so their child will know where they are, and they will be a part of any remediation that takes place. At the end of the third grade we will be giving a statewide test that will indicate whether or not we have met the goal of 100% of students reading on the third grade level. Part of that process will include a running report card or record that tracks each of the U-PASS elements for each student. As we test reading we will be looking at the five domains of reading because all are important.
- A recommendation to eliminate the 11th grade Iowa test because of the time and interruption. Also the number of other tests given in the 11th grade.
- Include intermediate algebra to the CRT's given and also the ability to use remediation voucher for those students who are not able to pass the UBSCT tests.

The Committee also recommended that we eliminate the third grade Iowa test and she will not be proposing this at this time. There may be some hesitation of removing a national norm test in the third grade.

Member Teresa Theurer reported that she had served on the committee and is supportive of the changes. She was also supporting of removing the third grade Iowa Tests, but was very supportive of removing it in the 11th grade.

Member Theurer questioned if the test that will have to be created? Also, she indicated that in the committee there was discussion of removing the CRT in first grade will that be part of the bill.

Representative Newbold responded that the Committee recommended removal of CRT in first grade for both math and English. This is because of the immaturity of the students at that age level. The results we are getting

from those tests are less than desirable. She believes that if we are going to give a test we have to look at what we hope to learn from it.

Motion was made by Member Teresa L. Theurer and seconded by Member Mark Cluff to support the concepts of the bill.

Representative Newbold also noted that they will be removing the language that refers to reading on grade levels.

Member Debra Roberts inquired as to whether or not we have an estimate of how much it will cost for the test at the 3rd grade level.

Judy Park, Director, Assessment and Accountability reported that the best group administered test for third grade students to determine reading level would be Iowa Test of Basic Skills. We currently give it to the third graders in the fall. They have a portion of that test that is for reading that could be given in the spring, or a heads-up in the fall, and then administered in spring to see who are reading on grade level. They recommend as part of that we add a longer reading test. Currently the reading test that is given to third graders in the fall is a 30 minute test. If it is going to be used for the purpose of determining reading on grade level they recommend a lengthier reading test that Iowa provides which would be one hour and ten minutes. The cost is very, very approximate \$200,000 to do the fall and spring test. Currently it is costing us \$89,000 to do the third grade Iowa. We would save approximately \$275,000 per year for removing the first grade math and language arts CRT's. What is saved from the first grade CRTs could be used to pay for these additional reading tests in the third grade.

Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Moss, and Theurer; Members Mackey and Morrill absent.

Proposed Legislation Continued

HB 68 - School Fee Waiver Amendments

Motion was made by Member Bill Colbert and seconded by Member Greg W. Haws to support.

Member Tom Gregory stated he would be voting against the motion because he is against the ideas of districts imposing many of the fees they impose. He does not think it is proper or ethical, although it is legal. He is not entirely sure it is something he wants supported from the state level, particularly when we can be using the money for things that would have a greater impact.

Member Teresa Theurer spoke in favor of the motion because there are many districts in the state that are impacted financially by fee waivers they have to give.

Member Gregory clarified that it is his belief that we should get rid of all fees students incur under required courses for graduation from high school. School districts are only impacted by fee waivers to the extent that they charge fees. If they stop charging fees and move to the property tax or some other source he would be in favor of that.

Member Bill Colbert stated that he agrees in principle with the philosophy presented by Member Gregory, but has concern for students who may be impacted by it if we don't provide the funding.

Member Theurer indicated that she agrees with Member Gregory relative to the property taxes, however, the districts that are impacted the most by providing the most fee waivers and the same as those in a depressed situation and cannot raise additional taxes.

Motion carried with Members Brown, Burningham, Cannon, Cluff, Colbert, Haws, Jensen, and Theurer voting in favor; Members Allen, Gregory, and Moss opposed; Members Mackey and Morrill absent

Motion was made by Member Bill Colbert and seconded by Member Mark Cluff to add a comment to the motion to support to reflect some of the minority concerns, relative to eliminating all fees related to core subjects required for graduation.

Member Tom Gregory indicated he was not sure that is the appropriate motion to send to the legislature because of the ability to allow the text book fees are required by the State Board of Education.

Carol Lear commented that it does makes sense and would be a credible comment to say that the Board supports the need.

Member Teresa Theurer spoke against the motion. As a parent she has paid fees and never had a problem. For her it was a way for her to put money into the system. The problem comes from students who can't afford it and the bill is just to help districts with payment of those fees..

Member Dixie Allen commented that it is all right for the mainstream and people that can afford to, but there are still many who cannot participate because they can't pay the fees and are reluctant to ask for a fee waiver.

Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, and Moss voting in favor; Member Theurer opposed, Members Mackey and Morrill absent.

HB 193 - Instructional Expenses Requirements

Motion was made by Member Dixie L. Allen and seconded by Member Michael G. Jensen that the bill is unnecessary. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Gregory, Haws, Jensen, Moss and Theurer voting in favor; Member Colbert opposed; Members Mackey and Morrill absent.

HB 101- Fee Waiver Reimbursements

Motion was made by Member Teresa L. Theurer and seconded by Member Laruel O. Brown to support HB 101.

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

HB 202 - Medical Recommendations for Children

Motion was made by Member Mark Cluff and seconded by Member Kim R. Burningham that HB 202 is

unnecessary. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Moss and Theurer voting in favor; Members Mackey and Morrill absent..

HB 212 School Discipline Amendments

Motion was made by Member Greg W. Haws and seconded by Member Michael G. Jensen to support the concept but find bill unnecessary. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Gregory, Haws, Jensen, Morrill, Moss, and Theurer voting in favor; Member Colbert opposed, Member Mackey absent.

HB 215 - School Reporting Amendments

Motion was made by Member Kim R. Burningham and seconded by Member Bill Colbert to take no position. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss and Theurer voting in favor; Member Mackey absent.

HB 236 - Student Clubs Amendments

Motion was made by Member Tom Gregory and seconded by Member Richard Moss to oppose because it is unnecessary. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, and Theurer voting in favor; Member Mackey absent.

HB 291 - Students Qualifying for Services for Deaf

Concern was expressed that this is legislation for one child. Don Uchida reported that there are assistive devices that can help this child in the regular classroom and they should work with the school and district.

No action was taken at this time.

HB 310 - Transfer of Student Records

Motion was made by Member Kim R. Burningham and seconded by member Richard Moss to support.

Member Laurel Brown suggested that we suggest a change in wording that the 30 days be days school is in session.

Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, and Theurer voting in favor; Member Mackey absent.

Proposed Voucher Bill

Chairman Kim Burningham noted that at the last meeting it was reported that there was a bill on vouchers. The Board took no action at that time because there was no bill. We have been told that the bill will come up but it never gets published. We have a statement from Representative Urquhart who is going to be sponsoring the bill, and indicates that it is like Representative Brad Dee's bill last year. They are also telling us that they hope by the end of the week to take action on it. He suggested that the Board consider taking action that would say that if in deed it is like Representative Dee's bill last year that the Board is opposed to it.

Member Dixie Allen reported that she was on Utah Public Radio last week with Representative Urquhart

and he gave us some parts of the bill. She voiced concern that what was shared does not address low or middle income students. It is similar to last years' bill in offering to give money back to the local district. She suggested that she believed this is somewhat unconstitutional and does not provide rural education. Member Allen strongly recommended the Board not support this bill.

Motion was made by Member Kim R. Burningham and seconded by Member Denis R. Morrill to oppose the concept as to what we have been told of the language that would be in the bill.

Member Denis Morrill commented that it is disingenuous that a bill that was the same as last year cannot be published. He felt this was a stealth attack and would not support the concept.

Member Greg Haws commented that he took a position that this was unnecessary from this board because he felt that we do public education and this has to do with legislature funding private education. He reported that he has been in several forums where this has been discussed by proponents of vouchers and has gone out of his way to talk with the proponents and tell them we are not in this fight necessarily and he has not had anyone come to him personally to discuss this. His impression is that they do not care how we feel about it and they are moving forward. He indicated that his position has changed and he is opposed to any bill or measure in this regard that would divert public education funds to private education. He commended Chairman Burningham on his editorial comment in the *Ogden Standard Examiner*.

Member Tom Gregory stated that he agreed with the position of Member Haws last year that to some extent it is not our issue, to some extent it is because the money could go to public education. However, if the students are not in public education and the money follows them somewhere else, in a way it is not our issue. Personally, he did not like last year's bill for a number of reasons, but they are different of others on the board. He is undecided on his vote today, but he opposes any position at all on the issue.

Member Bill Colbert spoke in opposition to the motion. He thinks that there is a difference of opinion on the board but he thinks that the bill that tried to come forward last year was too late in the session to have a very good discourse with the legislators. It tries to address the shortcomings of vouchers and concerns that have been expressed that folks of little means would benefit. He felt there were families that will meet the requirements. It may not provide all the funding necessary, but gives some families additional choices. He is strongly in support of as many choices in education as possible. He indicated that at some point the Constitutional questions will need to be addressed.

Carol Lear commented that aside from the Constitutional issues, the accountability issue are really important to look at in this bill, especially compared to bills in other states. For example in Ohio, it requires the private schools to meet the state accountability system. This bill requires one norm reference test as opposed to three or five as previously discussed with Representative Newbold at different grade levels. The response is that parents can assess with their feet, but given the school choice options in the state with charter schools and inter district and intra district

transfer that other parents can walk with their feet as well, it is a public accountability issue. She suggested that if there is a bill that needs to move forward it needs to have more public accountability measures in it. .

Motion to oppose the concept carried with Members Allen, Brown, Burningham, Cannon, Haws, Jensen, Morrill, Roberts and Theurer voting in favor; Members Cluff, Colbert, Gregory and Moss opposed; Member Mackey absent.

Vice Chairman Janet Cannon requested information on the following:

An update on bill we have heard about that would introduce partisan elections into state board process and a senate resolution proposal to take a Constitutional amendment forward to make State Superintendent an appointee of the Governor's office.

Carol Lear responded that there are no bills currently published at this time. The one bill on the appointment of the State Superintendent would not take place for about five years, including the Constitutional amendment.

Associate Superintendent Patrick Ogden noted that the legislation to change the constitution will be a resolution that needs to be passed by both the senate and house. There is a companion bill that would take the Office of Education and make it a department under the executive branch.

Motion was made by Member Bill Colbert and seconded by Member Richard Moss to oppose the concept of moving the State Office of Education under the Governor's Office. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, and Theurer voting in favor; Member Mackey absent.

Motion was made by Vice Chairman Janet A. Cannon and seconded by Member Bill Colbert to oppose the concept of partisan State Board of Education. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, and Theurer voting in favor; Member Mackey absent.

Carol Lear reported that Karl Wilson who has responsibility for the Utah Schools for the Deaf and the Blind assignment wanted to make an official response to bill about serving deaf students who are unable to speak. Since we will be working with the sponsor she will tell him that an official position is not necessary at this point.

Member Mark Cluff informed the Board that he has been working with Representative. Brad Daw on legislation along the lines of UBSCT. It would change the wording to allow the Board authority to replace UBSCT with another test. He indicated that the bill should be numbered and released any day.

Carol Lear reported that Representative Menlove has a bill that just came out this morning that has background check requirements for higher education. We have been trying to work out the bugs of concurrent enrollment issue one of the sticking points has been higher ed not wanting teachers to be required to have background checks. This bill would require the Board of Regents to have a policy for criminal background checks for higher

education teachers.

Motion was made by Member Bill Colbert and seconded by Member Janet A. Cannon to support the concept. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Haws, Jensen, Morrill, Moss, and Theurer voting in favor; Member Gregory opposed; Member Mackey absent.

(For complete details of the legislative material see General Exhibit No. 10125.)

Discussion of the next meeting to discuss legislation deemed that the next meeting will be on Wednesday, January 31 at Noon.

Motion was made by Member Tom Gregory and seconded by Member Janet A. Cannon to adjourn.

Meeting adjourned at 2:00 p.m.