

**MINUTES OF A LEGISLATIVE MEETING OF THE
UTAH STATE BOARD OF EDUCATION**

March 20, 2013

A legislative meeting of the Utah State Board of Education was held March 20, 2013 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah.

Chair Debra Roberts conducted.

Board Members present:

Chair Debra G. Roberts
Member Keith M. Buswell
Member Kim R. Burningham
Member Leslie B. Castle
Member Barbara W. Corry

Member Heather Groom
Member Jennifer A. Johnson
Member C. Mark Openshaw
Member Tami W. Pyfer

Board Members participating via phone:

Vice Chair David L. Crandall
Member Dixie L. Allen

Member Laura Belnap (non-voting)
Member Jefferson Moss

Board Members excused:

Member Joel Coleman
Member Marlin Jensen
Member Michael Jensen
Member James V. (Jim) Olsen
Member R. Dean Rowley

Member Isaiah (Ike) Spencer
Member Teresa Theurer
Member David L. Thomas

Executive staff present:

Martell Menlove, State Superintendent
Brenda Hales, Deputy Superintendent
Judy Park, Associate Superintendent

Bruce Williams, Associate Superintendent
Lorraine Austin, Board Secretary

Others Attending:

Christine Kearl; Governor's Office; Robin Bagley, Parent for Choice in Education; Judi Clark, Parents for Choice in Education; Sara Jones; Utah Education Association; Lisa Schencker, Salt Lake Tribune. USOE staff members Mark Peterson, Jaime Barrett, Roxana Orellana, Keith Lawrence, Sydnee Dickson, Randy Raphael, John Jesse

Chair Debra Roberts called the meeting to order at 2:37 p.m.

Swearing in of Heather Groom

Mrs. Heather Groom was administered the Oath of Office by Dr. Martell Menlove, State Superintendent of Public Instruction, and welcomed to the Board. She was appointed by Governor Gary Herbert to take the place of District 9 Board Member Craig Coleman, who resigned. Mrs. Groom resides in Highland.

Consideration of Veto Requests

Chair Roberts indicated that the main purpose of this legislative meeting was for the Board to consider whether to request vetoes from the Governor of specific legislation.

S.B. 271 3rd Substitute *School Grading Amendments*

Superintendent Martell Menlove gave the following background regarding school grading statute and legislation. In 2011, S.B. 59 *School Grading System*, was passed into law. After the law was passed, the Utah State Office of Education (USOE) developed, with stakeholder input and involvement from the sponsor of the 2011 legislation, Senator Wayne Niederhauser, the Utah Comprehensive Accountability System (UCAS) for school grading. It was noted that UCAS is not entirely consistent with state law, but is a model system developed with the hope that the statute would be amended to reflect the collaborative work done on the system. The first grades as a result of that system will be released in August or September of this year. The signing or veto of S.B. 271 3rd Substitute will have no bearing on whether grades will be issued.

S.B. 271 made some modifications to school grading, but included items the Board felt were unnecessary, therefore the Board took a position on the bill of "Unnecessary." S.B. 271 passed the Senate; when the bill was sent to the House, Representative Craig Powell drafted a 2nd Substitute, with input from USOE staff and others, which would have been supportive of the work and recommendations of the USOE. Superintendent Menlove felt it was apparent that even if the 2nd Substitute passed the House, it would likely not pass the Senate, with the result that the 2011 school grading law would remain in place.

Given that scenario, Dr. Menlove took the opportunity to work with Senators Adams and Niederhauser during the last few days of the session to draft a 3rd Substitute, which included many of the things which would support the work of the USOE, though not all. The 3rd

Substitute is substantially different than the original bill that the Board did not support. In the face of having either S.B. 271 3rd Substitute or retaining the 2011 legislation, Superintendent Menlove indicated to legislators that the State Office of Education was supportive of the 3rd Substitute, making it clear that the Board had not voted to support the bill and that he was not speaking for the Board. S.B. 271 3rd Substitute passed.

Because of the legislation, two assessment systems will be in place. There is no way to know, until an analysis has been done, how the new requirements will match up with the USOE's current UCAS system. The legislation changes the way schools earn points for individual student growth. The UCAS model allows for each student to have individually designated growth, giving partial points for partial mastery, and full points for reaching the growth measurement. S.B. 271 3rd Substitute eliminates the criteria established for measurement in the 2011 legislation, and gives flexibility to the Board to establish the percentages for measurement of growth; however, the legislation does not allow partial points to be awarded for growth of individual students that have not reached the set percentages, but only allows for full points to be given for students that have reached the measurement. Until the Board establishes the percentages, there is no way to tell how school grades will be affected.

Dr. Menlove expressed that while S.B. 271 3rd Substitute still has some areas which may cause difficulty for the USOE and schools, he feels it is far better than the 2011 school grading legislation, and puts the office in a better position to move forward with a grading system.

Board members asked questions and expressed concerns regarding the process and legislation. A major concern was the lack of time for analysis or public input on the 3rd Substitute.

Representative Craig Hall was welcomed to the meeting. He explained that he voted against S.B. 271 3rd Substitute after calling the superintendent in his school district and the Utah Education Association and being informed that the methodology outlined in the bill would result in lower grades for the schools in his district. He expressed concern that families will hesitate to move into a school district with low grades, and that teachers will be reluctant to teach in those schools. He reported that there was during the House floor discussion regarding the positions of education groups on the 3rd Substitute, and on whether there would be one or two grading

systems in place. He felt more time is needed to evaluate the effects of the new legislation, and encouraged the Board to request a veto from the Governor.

Senator Wayne Niederhauser, Senate President, was welcomed to the meeting. He reported that the growth model was the biggest challenge coming out of the 2011 legislation, and applauded USOE Associate Superintendent Judy Park and her staff for their work on the grading system and development of a growth model.

Board members expressed frustration that, given the amount of time for statistical analysis and input after the 2011 legislation, and the involvement and support from Senator Niederhauser for that work and recommendations for changes, the system outlined in S.B. 271 3rd Substitute hasn't had any opportunity to be analyzed or vetted.

Senator Niederhauser responded that analysis will need to be done over the next few months. If changes are needed, either new legislation will need to come to next year's legislative session, or changes would need to be addressed in a special session of the legislature. He reiterated that if the Governor vetoes S.B. 271, the school grading system now in statute would remain. School grades will be lower with the statute than with S.B. 271.

Board members questioned why it is better to give points only for fully reaching a standard as opposed to some points for growth. Senator Niederhauser responded that it is a matter of philosophy, and he believes the incentive should be a year's worth of growth.

Associate Superintendent Judy Park also reported that because of the extensive statistical work done when developing UCAS, she believes UCAS will provide the most accurate assessment of what is happening in schools. While S.B. 271 3rd Substitute may not be as accurate as UCAS, it will be better than the system currently in law, which uses a different mechanism to measure growth. She will be able to run data in the next few months to determine how accurately S.B. 271 will measure achievement.

Senator Niederhauser expressed that he feels a veto would be problematic, and committed to working with the Board and USOE staff once the data has been analyzed to fix any problems, if necessary.

Christine Kearn, Education Advisor to the Governor, reported that the Governor is receiving a tremendous amount of pressure to veto the bill. Some are basing their opposition on a table that was distributed comparing grades under UCAS with the system outlined in the

original S.B. 271 language. She felt they do not understand that the language was substantially changed in the 3rd Substitute and the comparison is no longer valid; nor do they understand that the result of a veto would be the school grading system currently in statute, which is not UCAS.

Board members expressed appreciation to Senator Niederhauser for his participation in the discussion and for his work over the past two years with the USOE to improve the grading system.

Motion was made by Member Kim Burningham and seconded by Member Barbara Corry that the Board recommend to the Governor that he veto S.B. 271 3rd Substitute contingent on the Governor placing the bill on a legislative special session agenda.

The Board was cautioned to consider whether requesting a special session for a grading bill is an appropriate use of taxpayer resources. It was also noted that there is a risk in putting the legislation back into the political process.

Member Jennifer Johnson called the question. Motion carried unanimously.

Motion failed 5-5, with Members Allen, Burningham, Castle, Corry, and Pyfer in favor, and Members Buswell, Groom, Johnson, Moss, and Openshaw opposed; Member Crandall absent. [For more details, see General Exhibit No. 12308.]

Budget Information

Superintendent Menlove distributed a summary of fiscal highlights from the session, and expressed his thanks to the legislature for its funding of public education. [For more details, see General Exhibit No. 12309.]

Superintendent Menlove and his staff were thanked for their work during the session, and were applauded by the Board.

Adjournment

Motion was made by Member Jennifer Johnson and seconded by Member Mark Openshaw that the meeting adjourn. Motion carried.

The meeting adjourned at 4:30 p.m.

Lorraine Austin, Secretary to the Board
Minutes approved April 5, 2013