

## MINUTES

January 30, 2009

Minutes of the legislative meeting of the State Board of Education held January 30, 2009, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 11:40 a.m. Janet A. Cannon, Chairman of the Law and Policy Committee presided

Members present were:

Chairman Debra G. Roberts  
Vice Chairman Dixie L. Allen  
Member Laurel O. Brown  
Member Kim R. Burningham  
Member Janet A. Cannon  
Member Leslie B. Castle  
Member David L. Crandall  
Member Greg W. Haws  
Member Shelly Locke  
Member Carol A. Murphy  
Member C. Mark Openshaw  
Member David L. Thomas

Members Rosanita Cespedes, Meghan Holbrook, Michael Jensen, Denis Morrill and Richard Moss were excused.

Also present were:

Superintendent Patti Harrington  
Deputy Superintendent Larry Shumway  
Associate Superintendent Brenda Hales  
Associate Superintendent Todd Hauber  
Associate Superintendent Judy Park

Members of the Press:

Amy Stewart, Deseret Morning News

Representative Wayne Harper  
Representative Carol Spackman Moss  
Representative Ronda Menlove

Utah State Office of Education Staff;

Paula Plant, School Children's Trust  
Margaret Bird, School Children's Trust  
Randy Raphael, Business Services  
Larry Newton, Business Services  
Cathy Dudley, Business Services  
Jean Hill, Law, Legislation and Educational Services  
Mary Shumway, Student Achievement and School Success  
Emily Eyre, Business Services  
LesLee Snelson, Law, Legislation and Educational Services

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Member Janet A. Cannon welcomed everyone and gave a brief overview of the purpose of the meeting.

Legislative School LAND Trust issues

Superintendent Patti Harrington explained the purpose of the item relative to the identity of the beneficiary for the student from the school land trust. It is the Board of Education and it designated the superintendent to carry the beneficiary information to the legislature and others. Dr. Harrington requested clarification on the issues. She suggested that the Board give her authority to deal with the trust lands and let them move forward. There are four pieces of advocacy the trust lands would like to carry forward. These are not bills or budget items but things we would like to watch carefully on the hill. (1) The Natural Resources Committee is looking at their budget and the trust lands employees would like to go up and make sure they not take action that will harm the school land trust. (2) In 2007 we agreed with the Department of Natural Resources that when they would like to allow hunters and fishermen on the trust lands we would allow that and there would be a fee paid from Natural Resources to the Trust Lands for this use. The Trust Lands administration would like to reinforce the memorandum of understanding with the Department of Natural Resources. (3) Trust Lands has been asked if they might pay for fire suppression on the trust lands. We have a 2003 Attorney General Opinion that states that there are payment in lieu of taxes already coming to Natural Resources for fire suppression and those payment would also cover trust lands. We would advocate we not pay further on this. (4) HB 11 is a full recodification of the Department of Natural Resources which may dramatically change that department and in so doing they might come close or be direct about some trust lands issues. She would like the trust lands staff to be comfortable with giving input on this. At whatever point it becomes dangerous that we may loose some power or ability or in some way protecting our trust lands then the Board would become involved.

Dr. Harrington questioned the Board as to whether or not they were comfortable with her judgment to tell the trust lands department to move forward on all four of these advocacy points.

It was noted that the bill passed out with no comments and no changes, and it is just to place it in one place.

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Motion was made by Member Greg W. Haws and seconded by Member Laurel O. Brown to direct the superintendent to represent the Board's interest on these specific points, with specific endorsement of the bill to come before the board. Motion carried unanimously.

(For complete details see General Exhibit No. 10800.)

#### HB 229 Public School Funding

Larry Shumway presented the comparison of School District Funding Sources Bills. (For complete details see General Exhibit No. 10801.)

Representative Wayne Harper explained his bill and it was his attempt to improve funding for education. He noted that (1) It will dedicate sales tax to public education; (2) stabilizes property taxes; and (3) increases sales tax 1.45%. He indicated that the bill is crafted to be revenue neutral.

Following questions of Representative Harper about his proposed legislation, also the length of the bill, Member Dave Thomas indicated he had read the entire bill.

Motion was made by Member David L. Thomas and seconded by Member Kim R. Burningham that the Board oppose the bill with a description of the issues the Board has with it.

Member Greg Haws suggested that rather than oppose, the Board take a position of watch because it is early in the process.

It was noted that the bill did not come out of the Tax And Revenue Committee favorably during the Interim Committees, and it is currently being held in the education committee.

Member Laurel Brown and Shelly Locke spoke in opposition to the motion.

Vice Chairman Dixie Allen suggested that the Board be specific of what it supports or does not support.

Member Kim Burningham commented that it was important that the Board take a position early on, and by not doing so we limit our influence.

Motion carried with Members Allen, Burningham, Cannon, Castle, Crandall, Murphy, Openshaw, Roberts and Thomas voting in favor; Members Brown, Haws and Locke opposed.

#### State Board of Education Election Process

Representative Carol Moss explained her bill, HB 150, which takes the school board election process back to the public and is non partisan. It also includes changes in the time of reporting financial disclosures to reflect those of other candidates.

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Member Janet Cannon noted that the Board had previously voted to support a position of a direct election.

Representative Rhonda Menlove reported that her bill is doing the same thing for a non partisan election of the State Board. She indicated that this will bring it from both sides of the isle and eventually at some point they will be joined.

Representative Menlove reported that the House caucus just voted a revised budget which includes another \$15 million in backfill for public education. This will help in the 2009 budget. This will still need to go to Executive Appropriations and the Senate.

Motion was made by Chairman Debra G. Robert and seconded by Vice Chairman Dixie L. Allen that the Board support the concept of these two bills in going to an open process for election of state board members. Motion carried unanimously.

Motion was made by Chairman Debra G. Roberts and seconded by Member David L. Thomas that the Board prefers to stay with the election process as it currently is rather than a partisan process.

Member Greg Haws noted that the ballot position is critical and suggested that the position on the primary ballot be by lottery selection. He suggested an amendment to the motion to add that when the Board sponsors a bill they write a letter indicating its support, or if we do not support a bill we so indicate the reasons for not supporting it.

The amendment was accepted by the makers of the motion.

Member Haws further suggested that the election might be moved to an off-year election which is non partisan.

Representative Menlove responded that there are some reasons not to do it because of statewide elections and the cost of doing this.

Member Kim Burningham spoke in support of Member Haws' suggestion indicated the education races get lost in the larger races and if you put it in between year it would be good for education in general.

Motion as amended carried unanimously.

(For complete details see General Exhibit No. 10802.)

#### Legislative Session Procedures

Chairman Debra G. Roberts presented two issues for discussion relative to Legislative Session procedures: (1) The Board needs to give the legislative team some guidelines and

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parameters. Because things move so quickly on the hill it is not conducive to say to Members Cannon and Thomas, and Superintendent Harrington and Larry Shumway that they can only take a stance if there has been an actual vote of the entire board. This leaves them very handcuffed. Otherwise, we can say we have great trust in the Superintendent and she understands the basic philosophy of the Board and allow her to take stands with Members Thomas and Cannon as they speak with legislators giving them much more to work with. The Board needs to decide what parameters they are more comfortable with. Her personal feeling is the Board needs to give them as much latitude as possible and trust them in the stands they take.

2. It would be wisdom on the part of the Board to make a broad based statement along the ideas that in this budget year when we are asking our local boards to make tremendous and hurtful cuts, that perhaps we should set some ceiling on how much is put to any kind of new program.

Member Kim Burningham spoke in favor of the 2<sup>nd</sup> issue.

Motion was made by Member Kim R. Burningham and seconded by Vice Chairman Dixie L. Allen to support requiring a monetary limit on new programs, no more than \$1 million. Member Burningham clarified that the Board does not feel there needs to be any new programs, but in recognizing there may be some new ones, they should be limited to critical new programs, and a total aggregate of \$1 million. Motion carried unanimously.

Member Greg Haws commented that he appreciates trust in all, however, this is the purpose we meet weekly. He would like to stay with procedure we have. The legislative team would be free to discuss what has been discussed in these meetings, but the proposal would negate the purpose of the weekly legislative meetings.

Chairman Roberts questioned if there was somewhere within the spectrum that some latitude could be given, speaking to general board philosophies.

Member Kim Burningham offered an alternative, that this board has to take responsibility for a position of yes or no. If the Board's position is needed sooner, he questioned if it were possible to hold a conference call vote. Twila Affleck indicated this was contrary to the open meetings act and the Board Bylaws.

Member Dave Thomas offered another option to empower the superintendent and Dr. Shumway to take positions from the office and not saying it is the board's position.

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Member Janet Cannon noted that in the past positions were given from a staff member and did not fit within the information she had received from constituents. She indicated that the Board of Regents leadership is allowed to take action on behalf of the entire Board of Regents. She is aware that in some instance they have done some things and other Regents felt were unheard and they felt left out. Perhaps it is a more cumbersome and slow process but it lets us do our job as elected representatives of our constituents.

Member Dixie Allen stated that the idea was to have more flexibility, however, the idea is to have some really clear cut non negotiable beliefs of the board that the legislative team can go to the hill and know they are supporting the Board. We realize that we may not be able to put this into place until next year. The idea is to move toward this direction so that our staff and our legislative liaison and board leadership has a clear understanding of our beliefs and those that are non-negotiable. The hope is to move forward so we are a voice rather than an aftermath.

Member Laurel Brown spoke against this direction indicating that she has been on the Board for a number of years and the same for legislative session and we have been through hundreds of bills without giving more authority to the legislative team or staff. She felt the staff has known what the Board's positions have been in terms of the basic belief system, etc. When it gets down to it they are not asking for a position of the belief system, but rather a position on a specific bill. The Board needs to be able to have the say into the process.

#### Board Electronic Communications - Guidelines and Limitations

Jean Hill presented information relative to guidelines and limitations relative to using email, etc. She reported that legally this is uncharted territory. There is no case law yet. She identified some basic premises for the Board in using email and not using it to conduct board business. (For complete details see General Exhibit No. 10803.)

#### HB15 Career and Technical Education Amendments

Motion was made by Member Greg W. Haws seconded by Kim R. Burningham to defer this item to a future agenda. Motion carried unanimously.

Meeting adjourned at 1:40 p.m.