

MINUTES

February 25, 2010

Minutes of the legislative meeting of the State Board of Education held February 25, 2010, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 12:00 p.m. Janet A. Cannon, Chairman of the Law and Policy Committee chaired the meeting.

Members present were:

- Vice Chair Dixie L. Allen
- Member Laurel O. Brown
- Member Kim R. Burningham
- Member Janet A. Cannon
- Member Leslie B. Castle
- Member Craig E. Coleman
- Member David L. Crandall
- Member Denis R. Morrill
- Member C. Mark Openshaw
- Member Tami W. Pyfer
- Member David L. Thomas

Members Cespedes, DePoe, Holbrook, Holmes, and Jensen, were excused. Members Haws and Murphy participated in portions of the meeting by telephone.

Also present were:

- Superintendent Larry K. Shumway
- Deputy Superintendent Martell Menlove
- Associate Superintendent Brenda Hales
- Associate Superintendent Todd Hauber
- Associate Superintendent Judy Park
- Public Relations Director, Mark Peterson
- Board Secretary, Twila B. Affleck

Members of the Press:

- Amy Stewart, Deseret Morning News

State Office of Education Staff:

- Carol Lear, Law, Legislation and Educational Services
- LesLee Snelson, Law, Legislation and Educational Services
- Representative Ken Sumsion
- John Andrews, SITLA

Chairman Janet A. Cannon welcomed everyone and called the meeting to order.

1SHB 323 - School and Institutional Trust Lands Amendments, H B 324 - Public Lands Litigation

Representative Ken Sumsion provided a brief update on the above bills. He indicated that they are trying to move to a different appropriation source to fund these federal lawsuits. He was hesitant to say what the source is because they have not had full discussions with all of the

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individuals involved in the sources. If this is possible, rather than taking the funds from the trust it would be replaced with other funding outside of the trust. He noted that there are other mineral monies coming from other properties that would never go to our school trust lands.

Representative Sumsion noted that if all of this works, it will be provided for in substitutes to these bills.

John Andrews Assistant Director and Legal Counsel for SITLA commented that the compromise that appears to be developing is one that seems to accomplish everyone's purposes. The School Trust Land Board had concerns of their mandate. This is coming together in a way that everyone can support.

HB 129 - Amendments to Education Financing

Representative Merlynn Newbold presented her concept to look at very simple way to equalization by freezing the basic rate. She stated that since 1980 we have allowed the basic rate to decrease to where we don't have enough to fund public education. We don't want to decrease education in one area to help another. HB 129 (1) freezes the basic rate at whatever it will be set at this year, and gradually increase the property tax to support the minimum school program. (2) distributes those monies through the weighted pupil unit. (3) as property taxes go up in order for it to be revenue neutral on the taxpayer or business, districts will take an equal decrease in their local revenues. (4) consolidate the levies. Right now there are 13 levies, some will be eliminated and the remainder will be grouped together into six. Representative Newbold commented that she hoped this is a concept the Board could support. She felt that this is an equitable and systematic way to increase funding into public education. (For details of the materials see General Exhibit No. 11135.)

Member Denis Morrill expressed appreciation to Representative Newbold for her caring about education.

Proposed Legislation

Deputy Superintendent Martell Menlove presented the following proposed legislation items:

SB 66 - Public School Extra Curricular Activities for Home School Students

Carol Lear, Director, Legislation and Educational Services reported that this bill was heard in the Senate Education Committee yesterday. She did not think this was well understood in the committee because they were kind of rushed and public comment was limited. She indicated that home school students can now participate in athletics if the home school student

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has an affidavit from a parent, teacher or organization that provides the primary instruction. If a student provides such affidavit he is presumed eligible. If a principal of a school in reviewing that affidavit thinks there is probable cause that the student is not eligible, the principal looks to whether or not the student has taken the UBSCT. If the student has not taken it and the principal is still concerned about the students eligibility then the principal puts together a panel that provides an appeal opportunity for the home schooled student. The panel is made up of three people who have home schooling expertise. The panel then decides the fate of the student for the full activity season and for any activity the student wants to participate in. Her observation about the bill is that you have traditional public school students that the only way they become eligible is by having their grades and citizenship reviewed throughout the school year. She further observed that it would be better if all students had an equal opportunity to have their eligibility established the same way.

Following questions and discussion a motion was made by Vice Chair Dixie L. Allen and seconded by Member Laurel O. Brown to oppose the bill. It was noted that this can be solved by giving districts information and asking them to be consistent in this. Further, Vice Chair Allen commented that she did not think the UBSCT was the best test for this.

Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Openshaw, Murphy, and Pyfer voting in favor; Members Coleman, Crandall, Morrill and Thomas opposed.

1SHB 323 - School and Institutional Trust Lands Amendments

Member Laurel Brown commented that she felt it is important for the Board to take a position on the bill as it is at this moment. She indicated that Representative Sumsion has noted the changes he intends to make in identifying another agency to fund this. However, the current bill establishes another agency the land grant management fund to be created which takes \$1 million on an ongoing basis every year from the school trust fund. The funding from the land grant management fund is to be given to the office of the Attorney General. The accountability is through a once a year report to the National Resources Appropriations Subcommittee and the Education Interim Committee. The accountability does not take into account the money came from the trust.

Motion was made by Member Laurel O. Brown and seconded by Member Denis R. Morrill to oppose with comment, that the Board can reconsider when new language comes forward.

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Member Janet Cannon updated the Board members joining on the phone the information presented by Representative Sumsion and John Andrews from the SITLA Office.

Member Denis Morrill reiterated opposing the current bill. They talk about a slight uphill battle and it is more than an uphill battle, and he would not like to finance this battle. If they are going to change the funding source so it doesn't come out of the children's trust fund he would be okay with it.

Member Craig Coleman commented that he felt they are making a good faith effort to try to substitute it, taking into consideration the concerns expressed by the Board. He did not see why the Board would want to take a position on a bill that they clearly want to substitute taking into consideration the concerns of the Board.

Member Dave Thomas commented that the Board has improved our relationship with the legislature by being a part of the process. They have been working with the Board on legislation in a positive way. We have done all of this to get our seat at the table and we are now in good faith discussions with them and will take a position in opposition to a bill they will substitute it out.

Substitute Motion was made by Member David L. Thomas and seconded by Vice Chair Dixie L. Allen to hold for further study.

Member Denis Morrill spoke in favor of the substitute motion, even though he seconded the original motion.

Comments were made in support of working with the legislature in a good faith effort and not destroying the relationship that has been built.

Member Laurel Brown commented that her main concern is the funding source and would like to work together with the sponsor to help, but we probably would not be here today with Representative Sumsion saying he would look for other funding sources if it were not for our partners, i.e. the PTA, local school boards and the Governor's office.

Member Dave Thomas voiced opposition with one aspect of the reason for the original motion. He felt that the change was made by the representative from what the State Board asked him to do last meeting. We did not take a position, but he heard what we had to say.

Member Kim Burningham commented that he did not think getting along with people means necessarily going along with them. If we find disagreement in a concept to go along and agree, it seem contrary to the principles you believe in. He suggested that there may be a better way to phrase the original motion. He suggested a separate motion that the Board opposes the

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bill in its current form, but are clearly open to it in a form that would take the funding source elsewhere. He felt a hold would be perceived as taking no position and being weak. Member Carol Murphy seconded the statement made by Member Burningham.

Following further discussion relative to trust and whether or not to oppose or take a position of hold.

Member David L. Thomas amended his substitute motion that the Board take a position of hold awaiting for a the new substitute bill that change the funding source. Vice Chair Dixie L. Allen accepted the amendment to the substitute motion.

Amended Substitute Motion carried unanimously.

SB 188 - Charter School Amendments & HB 149 - School Finance

Amendments

Deputy Superintendent Menlove reported that SB 188 and HB 149 both change role of State Board of Education in charter school allocations. They are basically identical language. The new language would state: "The State Board of Education may approve an increase in the charter school enrollment capacity in the 2011-2012 school year or thereafter subject to the legislature appropriating funds for the increase in the charter school enrollment capacity." Further, it appoints a member of the State Charter School Board to the State Board of Education as a non voting member appointed by the chair of the State Charter School Board.

Superintendent Shumway stated that as he reads the Utah Constitution it states that the state board is elected and legislature establishes the membership and manner of election. He indicated that looking back we should have raised Constitutional objections when the first non voting appointed members were placed in legislation to a board that is by constitution elected.

Member Janet Cannon commented that in the discussion of the Board Bylaws this was discussed and as a result of this argument we made the CMAC and USBA members as Advisory Members.

Vice Chair Dixie Allen recommended that the Board hold making a motion until we have Superintendent Shumway and Member Thomas go back to the sponsor to get terminology adjusted so we know specifically how the bill reads.

With regard to the number of students the Board can appoint discussion ensued relative to the funding for these students.

Member Dave Crandall stated that the bill is not clear, and there is a timing issue for approvals of new charter schools. Their applications are due at the beginning of the year and

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they don't make it to the State Board for final approval until towards the end of the year. This would mean that we can approve however many we want up to the end of that year and then those schools can't start committing any resources or assets until their funding is approved by the legislature the following year. He felt this was the intent of the bill, but it is not clear.

Member Denis Morrill commented that once again general supervision and control is slipping away from us.

Motion was made by Member Denis R. Morrill and seconded by Member Leslie Castle to oppose SB 188. Motion failed with Members Brown, Burningham, Cannon, Castle, Coleman, Morrill, and Pyfer voting in favor; Members Allen, Crandall, Openshaw and Thomas; opposed; Members Haws and Murphy absent.

Motion was made by Member David L. Thomas and seconded by Member Laurel O. Brown to support HB 149. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Morrill, Openshaw, Pyfer and Thomas voting in favor; Member Haws and Murphy absent.

Deputy Superintendent Menlove reviewed the following bills: HB 292, Equalization of Funding for Divided School District; HB 129, Amendments to Education Finance; 3SSB 43, Post-retirement Employment Amendments; SB 94, Supplemental Benefit Amendments for Noncontributory Public Employees; and HB 166, Reduction to Education Mandates.

(For complete details of the Tracking Sheet see General Exhibit No. 11136.)

Funding Update

Superintendent Shumway reported that both the speaker and president have confirmed what we have been hearing that they fund public education at the board recommended budget from last November. He commented that this is something the Board can take a great deal of satisfaction in achieving that number.

Motion to adjourn was made by Member C. Mark Openshaw seconded by Member Laurel O. Brown to adjourn.

Meeting adjourned at 2:10 p.m.