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**DRAFT UTAH STATE BOARD OF EDUCATION
LEGISLATIVE MEETING MINUTES**

February 19, 2015

The Utah State Board of Education met in a legislative meeting on February 19, 2015 at the Utah State Office of Education, 250 East 500 South, Salt Lake City, Utah. Chair David Crandall conducted. The meeting commenced at 12:05 p.m.

Board Members Present:

Chair David L. Crandall
2nd Vice Chair Jennifer A. Johnson
Member Dixie L. Allen
Member Laura Belnap
Member Freddie Cooper (non-voting)
Member Barbara W. Corry
Member Kristin Elinkowski (non-voting)

Member Linda B. Hansen
Member Mark Huntsman
Member Jefferson Moss
Member C. Mark Openshaw
Member Nancy Tingey (non-voting)
Member Terryl Warner

Board Participating Electronically:

Member Leslie Castle

Board Members Excused:

Vice Chair David Thomas
Member Brittney Cummins
Member Marlin K. Jensen (non-voting)
Member Steven R. Moore (non-voting)

Member Spencer F. Stokes
Member Teresa L. Theurer (non-voting)
Member Joel Wright

Executive and Board Staff Present:

Brad Smith, State Superintendent
Sydnee Dickson, Deputy Supt.
Bruce Williams, Associate Supt.
Lorraine Austin, Board Secretary

Emilie Wheeler, Board Communications
Specialist
Debbie Davis, USBE Internal Auditor

Others Present:

Jan Ferré, LCPD

Opening Business

Chair David Crandall called the meeting to order at 12:05 P.M.

Indirect Cost Pool

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Vice Chair Johnson reported that the issue was raised in the Public Education Appropriations and Social Services Appropriations Committees about the USOE/USOR indirect cost pool. The Legislative Fiscal Analyst for the Social Services Committee wrote a brief on the issue, and the committee chairs are suggesting that USOE transfer \$450,000 to USOR as a rebate for overcharging for indirect costs. Vice Chair Johnson reported that the Board's Audit Committee will be discussing the issue in its meeting tonight.

Appropriations Report

Associate Superintendent Williams distributed and reviewed information about the General Fund and Education Fund available revenue.

Legislation**S.B. 37 Data Reporting Regarding Front-line Teachers**

Chair Crandall reported that he has talked with Senator Aaron Osmond about S.B. 37. Senator Osmond indicated that if the Board would be willing to take up the issue independent of legislation he would be willing to abandon the bill. Member Openshaw recommended that as a matter of basic policy the Board should do what they can to prevent legislation.

Deputy Superintendent Sydnee Dickson reported that when money is appropriated to local education agencies (LEAs) for things such as teacher supplies the legislature wants to make sure who is being counted, as not all individuals that work in the classroom may be teachers. She felt it would be something that could be discussed in the legislative interim meetings and information provided on what the USOE database holds and how teacher data is collected and reported. Chair Crandall noted that there are also pieces in the legislation, such as reporting, that the Board will need to address.

Superintendent Smith reiterated the importance of having a single framework to make sure there are consistent accounting number for teachers. He expressed that it is something the office can and should do.

H.B. 264 Competency Licensing for Educators

It was reported that H.B. 264, sponsored by Representative David Lifferth, provides that if a particular vendor offers at least 5,000 teacher licenses nationwide and is accepted in ten states, the Board would be obligated to accept those licenses. Superintendent Smith suggested that it would be more efficacious and appropriate to have that handled by the USOE. He thoroughly supports the notion of competency based licensure, but it seems strange to him that the entity referenced was created by the federal Department of Education to provide teacher licensure.

Graduation Requirements Bills

Deputy Superintendent Dickson reported that the Senator Ann Millner's bill, S.B. 196 *Math Competency Initiative*, is geared toward students achieving quantitative math competency by the time they get to college and encourages diminishing rates of remediation. She expressed concern that the bill puts students into three tracks—college bound, career and technical education, and students with disabilities. Students planning to attend college would have to take and pass college courses in high school, or Advanced Placement, International Baccalaureate, etc.

Dr. Dickson also drew attention to bills that would add a Civics test and a language requirement to graduation requirements.

Member Allen hoped that those running the bills would take into consideration the challenges for rural schools in providing additional courses.

Board members and staff expressed concern over the legislature setting graduation requirements. Vice Chair Johnson suggested inviting the bill sponsors to discuss the governance issues.

Chair Crandall stated that the underlying issue with all these bills is the idea of a graduated diploma, and the idea that a student can graduate from high school and still not be ready for college. An approach could be that in addition to offering diplomas, certificates with additional requirements could be offered. He also suggested talking to the sponsors about taking a different approach. It might be a good discussion for a joint meeting.

Superintendent Smith commented that the Board and USOE have committed to doing a zero-based budgeting process in which legislators will be invited to participate. Part of that is inherently involved with strategic planning. He suggested changing the timing of discussions with legislators, bringing legislators to the table earlier in the year, in June rather than January.

Charter School Funding

Member Corry reported that she has talked with several school district superintendents and they are very concerned about the change to charter school funding. She asked whether there has been any movement about adding funding back into the charter school replacement item.

Chair Crandall responded that it is currently in the hands of the Executive Appropriations Committee. He reminded Board members that the Board recommended a change to the way charter schools are funded. Member Corry asked that the Board discuss changing its recommendation, and indicated she had not realized the impact of that decision. She felt that after years of charters and districts working together to come up with funding, the recommendation shouldn't have been made without discussion with districts and charters. She also noted that the recommendations from the Board's R277-419 Task Force haven't been considered, and suggested that the issue needs to be revisited to allow for more study.

Vice Chair Johnson clarified that if the 50 percent funding is approved, there will be money set aside to hold districts harmless that have many charter schools in their areas. There are some districts that will be advantaged by the situation. The question is whether charters should be funded on a statewide basis or funded based on from where the students are coming. The recommendation has already moved forward. It is complex because of the way the funding has been structured to go both into the flexible allocation fund and one-time fund to hold districts harmless.

Chair Crandall reported that during the discussion about this issue in Executive Appropriations, it was recommended by some committee members that since this issue is such a big issue it be handled through legislation rather than the budget bill.

Member Allen expressed the importance of reminding the legislature that charter

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schools have more flexibility, fewer students and more ability to change the education process than do traditional schools. Some districts have many charters with them, not because districts can fund them, but because charters are held harmless. She believes charters are wonderful, but the burden shouldn't be placed back on the districts.

Member Tingey pointed out that the hold harmless provision is only for one year, while the funding constraints will extend into the future for districts heavily hit.

Member Moss stated that he shares the concerns and believes there would be benefit in relaying to the legislature that the Board has some concerns, and after further discussion, realized it is a very complex issue that was determined fairly quickly. His recommendation would be to slow the decision down and have more discussion because of the impacts to districts.

Member Huntsman asked if the proposed \$6.5 million is sufficient to hold districts harmless. A response was given that it is debatable.

Member Belnap emphasized that it comes down to our children. When districts and charters are not getting along it hurts the children because schools are not sharing resources or working together because of the chasm created. She expressed that she would love to see charters funded through the state at the same funding level as districts. She felt no money should be transferred to charters from traditional schools, but doesn't want charters hurt either.

MOTION was made by Member Belnap and seconded by Member Corry that the Board direct Board leadership to meet with the Executive Appropriations Committee leadership and/or the Executive Appropriations Committee to discuss the charter school funding issue and express the Board's concern that because the process is very complicated, and after further review, the Board requests pulling back from changing the charter school funding process to allow for a more lengthy debate.

Member Belnap also suggested discussing the bigger issue of having charters funded at the same level as traditional schools, but not taking from each other to do that.

Superintendent Smith reported that the transfer has always been bothersome to local school boards because they are the ones that have to pass the tax, and a piece of that is

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diverted to an entity over whom the school districts have no electoral control. As a school board member, he felt he was being asked to almost violate his oath of office and raise taxes, but divert money elsewhere. There is need for a discussion with the legislature about the funding mechanism for charters.

Member Elinkowski asked if the Board's support is also tied to abolishing the October 1 funding. A portion from the Board's February 5, 2015 meeting minutes were read, confirming that the Board approved adding charter school replacement funding to the flexible allocation fund and recommending the sunset of the exemption of ADM plus growth for charter schools.

Member Castle questioned whether the Board has a better solution to fund charters and asked how others states are funding charters. Superintendent Smith indicated if the funding structure is reconsidered he would direct staff to understand how other states have addressed the issue and look at other approaches.

Member Hansen added that the State Charter School Board discussed the issue in its last meeting, and after listening to the charter board and local superintendents she feels it would be better to have separate funding streams.

Member Openshaw noted that this is a policy discussion that is set by the legislature and felt it important to recognize and thank the legislature for asking the Board for advice.

Motion carried unanimously.

Testing Opt Out

Member Moss asked for an update on changes to the memo that was sent from the USOE to LEAs on opting out of testing. Superintendent Smith reported that he has outlined a new memo to be presented to the Board in its March meeting. The memo will include the following: 1) A strong recognition of parental rights; 2) a statement that assessment is a strong part of education and the case needs to be strongly made that appropriate assessment is key to education reform; 3) a statement that there is the safe harbor provision that provides certain safe harbor opt outs. The safe harbor provisions aren't for all tests, and there are things for which the safe harbor provision doesn't allow opt out.

Member Moss raised the concern that a statement has been made to districts that

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suggests there are some tests from which students may not opt out. He has further concerns that parents are still being told things that are exacerbating the problem.

Superintendent Smith responded that districts and LEAs have not asked for guidance, and he is waiting to give guidance until the Board has approved a policy. There was ambiguity related to the DIBELS and SAGE interim assessments. As the DIBELS and SAGE interim windows have closed, he didn't feel the need to immediately send another memo to LEAs without Board approval.

Member Belnap reported that a concern that has been related to her from districts and charters is that educators have been told they can't tell students they can opt out of a test. Superintendent Smith responded that the Board has approved teacher rules of ethics that indicate educators will support the assessment system approved by the state. There is a problem moving forward that as the evaluation system hooks in teacher performance, that may cause an ethical problem.

Member Castle related a conversation she had with a rural superintendent who indicated he would appreciate some direction from the Board so districts are handling the opt out issue in a consistent way. He expressed his feeling that opting out of testing really undermines the integrity of the school and education system in the state. She supported that statement, and referenced a suggestion she made previously that parents do have the right to opt their children out of testing, but there should be consequences for doing so. If students are not tested, she thinks because of such a threat to the whole system, it should be clear that those students have not been evaluated and vetted as other students have been.

Member Moss asked if SAGE test are being given for every grade. USOE Assessment Director JoEllen Shaeffer responded that Board rule requires SAGE writing assessment in grades 3-11. Member Moss asked for information on the writing assessments and the context in which testing that many grades came about.

Superintendent Smith suggested there may need to be a look at assessment strategy. It is deeply concerning to him that there is a percentage of students opting out, because that compromises the system and outcomes for those students. Information may need to be rolled out in a different way.

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Vice Chair Johnson also expressed concern about the addition of SAGE writing assessments and asked for a copy of the most recent contract with AIR. Dr. Dickson reported that the Board signed off on the contract and it contains language pertinent to what teachers should say. The contract will be provided to the Board.

Adjournment

MOTION was made by Vice Chair Johnson and seconded by Member Openshaw that the meeting adjourn.

Motion carried. The meeting adjourned at 1:45 p.m.