

**Minutes of the
Public Education Appropriations Subcommittee**

October 16, 2001

Members Present: Sen. Howard Stephenson, Co-chair
 Sen. William Hickman
 Sen. Karen Hale
 Rep. Marda Dillree, Co-chair
 Rep. Doug Aagard
 Rep. Glenn Donnelson
 Rep. James Ferrin
 Rep. Judy Ann Buffmire
 Rep. Karen W. Morgan

Members Excused: Rep. Brad King

Staff: R. Michael Kjar, Fiscal Analyst
 Jonathan Ball, Fiscal Analyst
 Ben Leishman, Assistant Fiscal Analyst
 Kathryn M. Jackson, Secretary

1. Call to Order-Representative Marda Dillree called the meeting to order at 9:12 a.m.

R. Michael Kjar reported to the Committee regarding the shortfalls in the budget. Mr. Kjar started with FY 2001 which closed with a \$73 M shortfall. Of that amount, \$54 M was in individual income tax and \$18 M in corporate franchise tax in the Uniform School Fund. The General Fund also had a \$10 M reduction in insurance premium tax for FY 2002. There was a surplus of \$12.3 M, \$11.6 General Fund and \$.7 Uniform School Fund. The Governor in order to meet the situation in FY 2001, initially had holdbacks from State agencies. He implemented the reductions \$31.1 M in one time expenditures and \$42 M in ongoing expenditures for a total of \$73 M. That was the first holdback made by the Governor. As of September 11 and with new information from the Tax Commission and economist projections, it has become necessary to look at another \$87 M dollars in reductions. The Governor is proposing \$20 M in agency holdbacks (which public education will be held harmless) and using \$67 M from the Rainy Day Fund. In the local paper it has been reported that some legislators feel that would be problematic the fact that the Rainy Day Fund is one time money. In preparing the FY 2003 budget there is some question whether they want to do that so you as a legislature will be looking at those kind of issues in your individual meetings and caucuses to determine what you want to do. It will require Legislative action to utilize the Rainy Day Fund and to pass some appropriations or negative appropriations in terms of the holdbacks, particularly the \$10 M in the first round of reductions for the Capital Facilities. Going into FY 2003 with the lower base you begin with a negative balance of almost \$42 M using the Governor's estimates. At this point it appears to be extremely tight budget year

to develop a budget for FY 2003. Our office has been asked by
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legislative leadership to review some of the one time expenditures and how that effects the budget and we are preparing information that may be helpful as you begin to prepare for the upcoming session.

Rep. Judy Buffmire asked Mr. Kjar that with the Olympics being held in 2002 when, if there is a profit, would it be coming in, 2003 or will it be in 2004. Mr. Kjar responded that there more than likely will be residuals implications of Olympic revenues in 2004 and 2005. Those kind of things such as revenue estimating have been taken into account. Rep. Buffmire stated if things go wrong in the Olympics we are in more trouble. Mr. Kjar responded in the affirmative.

Sen. Howard Stephenson stated that Mr. Kjar did make mention of legislative action being needed to use the Rainy Day Fund. He asked if Mr. Kjar knew if the Governor was planning on waiting until January to do that or calling a Special Session. Based on discussions Mr. Kjar and Mr. Massey have been in with the Governor's Office, Mr. Kjar's sense is the Governor is going to wait until the January session. Sen. Stephenson asked if there is not a cash flow issue that would require him to act that at this time. Mr. Kjar stated that not from his proposed options. That may be something the Legislature may want to consider timing wise if they choose to do something different. Sen. Stephenson said the figure \$177 M has been given to the media. Mr. Kjar stated the \$73 M is the original reduction and then another \$87 M. The \$177 M is a cumulative total.

Rep. Judy Buffmire concern is that we are into dire straights and we don't have the money coming in to support higher education which is also needed. Rep. Buffmire requested a figure that would be interesting to have and how much would be in deficit if we pulled out Uniform School Funds from higher education.

2. Budget Holdbacks-Capital Outlay Funds

Chad Harris of the Governor's Office of Planning and Budget presented a Review of FY 02 and FY 03 Public Education Budget Reductions.

Mr. Harris stated that after a decade of excellence, our economy has slowed down. Rather than wait for actual numbers in the spring, the Governor proactively curbed spending in anticipation of the revenue shortfall. Mr. Harris stated that the Utah Constitution required a balanced budget. The authority that the Governor has is found in Utah Code 63-38-10(3). If the total of all revenues accruing in any given fiscal year to the General Fund, or any other major fund type, collections, or dedicated credits, from which appropriations are made, are not sufficient to cover the appropriations made for that period, the governor shall reduce the budgetary allotments and transfer funds by the amount of the deficiency.

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In FY 2002 the Minimum School Program, except for the Capital Outlay Program, is held harmless. Governor Leavitt sent an e-mail to the state's teacher population explaining the situation. Next year the Governor's Office is looking at a limited growth funding. The Governor has requested from agencies an additional \$10 to \$25 M in the second round of budget reductions, excluding public and higher education and public safety. He is committed to holding Public Education harmless as education is the key to the future stronger economy.

The Governor's Office of Planning and Budget gave agencies their target amounts for reductions on the October 12, 2001. Agencies are expected to have their recommended reductions back to the Governor's Office of Planning and Budget by November 5, 2001. The current holdbacks (which now are permanent reductions) include \$32 M in one-time funds, \$48 M in ongoing funds, and \$12 M in surplus from FY 01.

The second series of holdbacks are the \$16-25 M in ongoing or one-time funds per agency; and approximately half of the Rainy Day Fund (\$60 M) which totals \$177 M for FY 2002. Public Education, Higher Education and Public Safety are held harmless in the second series of holdbacks.

The details of the 1st holdback is that Governor's Office of Planning and Budget worked with the Utah State Office of Education to hold K-12 education and the Utah Schools for the Deaf and Blind (USDB) virtually harmless. Utah State Office of Education faced \$831,600 in ongoing budget reductions, \$714,000 in one-time funds, \$10 M Capital Outlay Program and \$20 M in Education Protection Fund. The Utah State Office of Rehabilitation faced \$215,400 and the Utah School for the Deaf and Blind was virtually held harmless with \$25,000 coming from external contracts. Due to the projections of slowing revenue collections, the Governor requested the State Board of Education to holdback the \$10 M in new money. This is an ongoing program with new money. Combined with the holdbacks from other existing programs, it helped show participation while other state agencies carried a disproportionate share of the holdbacks, in particular, higher education.

Mr. Harris stated the anticipated impacts of the holdbacks are three-fold: facility growth is slowed during a time of increasing school enrollment, the \$10 M represents a hold harmless involving the sunset of the Emergency Building Aid program for districts who have used the emergency funds for several years; and equity-only 18 districts are directly affected by the reduction.

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For FY 2003, the state's economic trend, heightened by recent events, is seen as a V-shaped economy. The summer of 2002 is projected as the point of initial recovery. Public Education was given a target of \$2.1 M dollars (3 percent of their budget) not including the Minimum School Program. The Governor is planning to return to last year's budget level with an additional 4 percent for growth.

Sen. William Hickman asked of Mr. Harris, the Governor said we are going back to the FY 2001 budget then we are going to have a 4 percent increase, which is based on growth and not necessarily revenue and he wants to hold it to the 4 percent increase regardless of the impact to other state agencies? Mr. Harris stated that the 4 percent is merely a target.

Sen. Howard Stephenson questioned the impact on education had the Governor proposed for education to share proportionally in the cuts. Sen. Stephenson wants to know if the \$10 M that the State Office of Education is holding back on the Capital Outlay Equalization Program were distributed in the weighted pupil unit, what would it mean. It seems that the education community really understands the weighted pupil unit, and if we were to say if that \$10 M were in the weighted pupil unit what percent would that be? If the proportionate cuts were made in education rather than using the Rainy Day Fund and cuts in other agencies, what would that percent be in the Uniform School Fund. Sen. Stephenson felt it important for the public and the education community to really understand what potentially could happen if the Legislature decided on doing something different than the Governor is proposing and to get a feel for what education's impact proportionally would be if we would say we are not holding them harmless.

Mr. Kjar responded to Sen. Stephenson's question as to what a rough idea of what that scenario would be with about 1 percent from state agencies is equal to about \$18 M and for public education 1 percent would be about \$20 M. Sen. Stephenson asked Mr. Kjar what relation is that in the weighted pupil unit? Mr. Kjar responded that you were just doing it in the weighted pupil unit itself, a percent is approximately \$16 M. Sen. Stephenson stated that would be about a 3 percent drop in the weighted pupil unit. Sen. Stephenson stated that in the 1980s there was a severe economic crisis, and Governor Bangaterer made significant cuts in the budget and in March (near the end of the school year) the weighted pupil unit was adjusted downward and the year had almost been expended. It was a struggle for local schools to manage. That same year the Legislature had adopted a \$176 M tax increase package.

Sen. William Hickman stated that the impact we have when we carryover into FY 2002 from the FY 2001 cuts asked if they were the same cuts or are they larger. Mr. Kjar stated they are larger if you use the Rainy Day Fund of \$67 M to fill the gaps in FY 2002, then you would either have to have new revenues or some source to pick up that revenue in FY 2003. Sen. Hickman asked if the totals in

FY 2002 with the exception of the Rainy Day Fund money

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becomes the new base it will be \$160 M short. Mr. Kjar responded in the affirmative. However, Mr. Kjar responded to Sen. Hickman's comments by saying it is more than then \$160 M short, of your \$93 M, \$30 M is one time money making it a total of \$190 M short. Mr. Kjar also reminded Sen. Hickman that there is a surplus from FY 2001 of \$12.3 M and when you add that to the \$190 M you are at a shortfall of over \$200 M.

Sen. Stephenson asked Mr. Harris that when the Governor plans to "bounce back" in the FY 2003 budget by 4 percent does that include in the base for FY 2001 the \$56 M of cuts or the original FY 2001 figures? Mr. Harris was not sure. Sen. Stephenson stated that he hopes the projections of the V-shape bounce back is accurate, because if it is it might make sense to use the one time monies to bridge that gap. Of course, the one time monies include the \$31 M one time out of the \$73 M and then \$67 of the Rainy Day Fund. That would then diminish the depth with which we need to cut. Mr. Harris stated that it was his belief that was the rationale to go into the Rainy Day Fund.

Sen. Hickman asked Mr. Harris if he had a general summary of the criteria used by the Governor's Office of Planning and Budget to arrive at the "V" recovery. Mr. Harris stated he did not have it with him but would provide it to the Committee. Sen. Hickman stated he would like to see where the main recoveries are expected to occur and compare them to a Legislative perspective. Sen. Hickman stated that even though the economic predictions are on the gloomy side, that there may be other alternatives that as a Legislature they have not looked at.

Mr. Harris shared the with the Committee a historical perspective of the weighted pupil unit. Sen. Hickman asked Mr. Harris if he used 100 percent of the annual CPI number. Sen. Hickman stated his problem with using 100 percent of the CPI is that some of the items in the CPI are fixed and not variable. So if you use 100 percent of the CPI as costs are variable. You need to use a percentage less than 100 percent and the graph becomes distorted due to the portion of the CPI that is fixed.

Rep. Ferrin asked if there is a similar graph that shows actual funding for education. Rep. Ferrin inquired if we have had a flat WPU but an increase in the WPU that we allot each student. Mr. Kjar responded to the Committee that they have a copy of the Public Education Data book our office produces each year and that will give you a historical perspective of spending. There are graphs in there as well and some CPI adjusted graphs. We have looked at various indicators over time and have not been entirely comfortable with them. There is an education index some people use and it has its problems also.

Sen. Stephenson stated that the Committee did not want to give education a false sense of security on the proposal before us. If we all thought this was going to be adopted I think educators and the Committee would breathe a sigh of relief and we would have an easy job ahead

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of us. However, that may or may not occur. Sen. Stephenson is wondering if the Governor is waiting for the Legislature to authorize the use of the Rainy Day Fund in January when the session starts then half of the year is already gone and it concerns the Senator that we would wait until then to have a definitive answer. We may send education the wrong message and end up like in the 1980s where they have already set salary schedules and starting spending in other areas and don't have the room to cut back. We might want to ask Leadership and Executive Appropriations Committee to ask the Governor to allow us to participate early on rather than in January when the year is more than half gone. Sen. Stephenson asked of either the Committee staff or Mr. Harris to provide the Committee with what the cuts would be if they were distributed solely in the weighted pupil unit. What would that amount to in a percentage both in the FY 2001 holdbacks if they were proportionally distributed and if the FY 2002 holdbacks. Sen. Stephenson felt that would be a good way to communicate the potential cuts to the education community and say we are not out of the woods yet and this is potentially relative portion education may have to share.

Sen. Howard Stephenson made a motion to request from Executive Appropriations and Leadership in both houses to allow the Legislature to participate early in the decision making rather than in January.

Rep. Ferrin inquired if Sen. Stephenson's motion was asking the Governor to call a Special Session. Sen. Stephenson responded by stating if the use of the Rainy Day Fund requires legislative authorization, he thought that anticipates a Special Session to act. He did not feel it appropriate or prudent for the Legislature to make that decision 3 months from now or more if it gets hung up in the Legislature.

Rep. Marda Dillree stated that the Legislature realizes that the next General Session is going to be somewhat fragmented, brief, and this issue can severely impact this Committee and severely impact the education community in trying to put their budgets together.

Rep. Dillree authorized staff to draft a letter indicating the rationale for the motion that has been made indicating the impact on the budgets of the schools and dealing with the Public Education Appropriations Committee budget in the event the Rainy Day Fund was not appropriated.

Sen. Stephenson's motion passed unanimously.

Patrick Ogden, Associate Superintendent, State Office of Education, stated he wanted to echo appreciation for comments by Sen. Howard Stephenson in regards to potential budget holdbacks that may impact public education. Mr. Ogden stated that as he looks at the situation as seeing the Governor has placed that \$60 M from the Rainy Day Fund into the budget in lieu of

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going to the minimum school program and higher education and cutting our budgets. If that money is not available, the State Office of Education will have to go in and cut the minimum school program significantly. The sooner the State Office of Education could act the easier it is to make those reductions. If public education, the minimum school program, had to take the full \$60 M cut, it would be the equivalent to a 3.6 percent WPU decrease.

3. Block Granting:

Mr. Ogden reviewed the programs outlined in the Local Discretionary Block. One of the characteristics of the Local Discretionary Block is that districts may spend all or part of their funding for any or all of the programs in that particular block. It is also possible for districts to move part or all of the money between programs. Districts must adhere to the spending requirements for the programs they fund.

Some issues of block granting include: how much district discretion was actually intended by the Legislature. Some of the statutory programs were repealed, and some distribution formulas have been changed. Mr. Ogden began a discussion of the issues surrounding block granting. One being: how much district discretion was intended? At the present time, the way the Local Discretionary Block grant is configured, districts can spend unrestricted local program and local discretionary program funding anywhere in their budget. Those two programs are located within the Local Discretionary Block grant. Theoretically, districts could take all the funding for all the programs and roll them into the unrestricted local program and spend it anywhere in the budget without the restrictions associated with those other programs. The question then arises, "did the Legislature intend to give that much discretion to districts by keeping that unrestricted local program and the local discretionary program in the block?" If that was the intent of the Legislature, why have a menu of programs within that block when Districts can spend some or all of the funds on programs that are not in that block.

The second issue is that some of the statutory programs within the block; such as some of the requirements and some of the definitions of the programs, have been repealed in legislation. Two examples would be the Incentives for Excellence program and the Character Education program were completely repealed. The question remains, if the districts chooses to spend money for an Incentives for Excellence program what does that mean? If the districts are to decide on those programs, how will they be comparable? What was the intent when the Legislature eliminated some of the statutory

references? There were programs such as the unrestricted local program, reading initiative, experimental developmental that were also eliminated. We are asking the Legislature to come back and clarify what they meant when they repealed some of those programs. What the State Office of Education did was to pass a board rule to reinstate those programs.

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The final issue Mr. Ogden wanted to focus on was the change in the distribution formulas. Within the Local Discretionary Block grant each program has its own distribution formula. There are 3 types of formulas: pupil based, equal base plus pupil distribution, and competitive grants. The differences depend on the program: whether to target funding to a certain school age population, allocate funding in sufficient amounts to accomplish purpose, for example, some of the program funding is allocated across all districts, there would be some districts that would not have sufficient funding to accomplish anything, so base plus formula was established. It was also done to establish equity to allow students in small districts equal opportunity with those in larger districts. Prior distribution formulas were as follows: Truancy Intervention/Prevention (grant), Unrestricted Local Program (enrollment), Incentives for Excellence (base+), Education Technology Initiative (base +), Character Education (grant), School Nurses (enrollment), Alternative Middle Schools (grant), Reading Initiative (base+), Experimental Developmental (enrollment), and Local Discretionary Program (enrollment).

The new distribution formula would take all programs and does away with them and substitutes a similar formula referred to as a 1+2+3. The 1+2+3 formula includes the number of WPUs for kindergarten, grades 1-12, and necessarily existent small schools. The consequences of the formula change is the elimination of the base+ funding which will harm small districts. The changes in the ETI formula would have a negative impact on the following districts: Daggett, Juab, Piute, Grant, Wayne, Rich, No. Summit, So. Summit, Morgan, and Tintic. The districts with a positive impact would be: Alpine, Cache, Davis, Granite, Jordan, Nebo, Tooele, Washington, Weber, and Salt Lake. Another consequence of changing this formula is that the 1+2+3 hurts small districts that do not necessarily have existent small schools. The State Office of Education recognizes the Legislature wanted to keep this balance between rural and urban schools and added the necessarily existent component to the distribution formula. However, there are four districts that are rural, small districts that don't necessarily have the existent small schools, Juab, Morgan, Park City and Watsatch. They do not benefit when you go with the 1+2+3 formula. The Legislature recognized that changing those formulas to the 1+2+3 was going to have negative impacts. Therefore, they appropriated funding called hold harmless.

The State Office of Education would like to know what the future of hold harmless is; is it one-time money, ongoing money, or will hold harmless be phased out over 3 or 4 years. An issue with hold harmless is it is hard coded into Legislation. Very rarely has the Legislature actually set down an

appropriated money specially to districts. Most of the time they have given the State Office of Education the authority with some guidelines to develop formulas on how that money will be allocated. This time the Legislature said this is how much money we are going to give and to this district to hold harmless (H. B. 3). The problem is it was developed and based on projected data. We would like to allocate that on up to date current data. We would like to ask the Legislature to repeal the hard coded line by line appropriation and appropriate it back to

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the State Office of Education with directions for the Board to develop a funding mechanism to send money back to the districts. Mr. Kjar responded that the Executive Appropriations Committee has had a meeting and a hearing and has directed legislation to be prepared to do just that.

Rep. Marda Dillree stated that as Mr. Ogden indicated it was the Committee's desire to hold harmless. The formula that was developed using the data we had did not do what we had intended it to do. We need to make sure we make those changes to accomplish our goal.

Mr. Ogden stated that if you plan to allow the State Board to reallocate this funding, districts have already budgeted for this hold harmless. They have looked at the bill, while the State Office has not distributed it, they know the amounts and have placed them into their budgets, and planning on spending it. If we now take that money and reallocate it there is going to be winners and losers. What we would like for you to do is to hold harmless the hold harmless. We would like a supplemental to give us money that would treat those districts that were not held harmless by the original formula harmless. Then allow those districts to retain the money they have already built into their budgets.

For FY 2003 the State Office of Education is proposing that we take the hold harmless money and fold it into the local discretionary block grant. We would eliminate the concept of the hold harmless.

Rep. Judy Buffmire had a question of Mr. Ogden regarding the State Office of Education's proposal. The hold harmless issues seems to have been influx for districts. What was in one program in one area one time, might not be there the next time. If you propose a one time fix, how is that every going to be a hold harmless, that seems to be an incongruent? Mr. Ogden responded that with those programs that were distributed on an RFP basis that if you turn around and hold the districts harmless who have received an RFP then you are saying, in essence, that your granting them that RFP in perpetuity. For the most part, that is not the case, and districts need to apply for those grants annually. Rep. Buffmire stated that the purpose, she believed, for categorical programs, was not for the programs, but for the students that had the need. If they didn't get it one year then they would get it the next year. Rep. Buffmire is not sure how you make that an even thing and make it fair to smaller districts. Rep. Buffmire stated she is not sure how you do that without having categorical funding in

small districts. She is fighting hard for that because it targets areas where there is need.

Mr. Kjar responded to Rep. Buffmire's comments by stating that over the years when ever there were sufficient changes made in the financing formula in public education, it always had ramifications. The hold harmless principal has been used many times to facilitate change, facilitate school reform, finance reform and various other things the Legislature wanted to do at a

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particular time. The theory of the hold harmless is that it allows districts a period of time to adjust to the impacts of the reform proposal, whether negative or positive. There are different methods at looking at what hold harmless should be. Some districts feel they should receive as much money as they would have had if the programs would have stayed the same in the given year they were appropriated or the year ahead. The hold harmless that was utilized in this particular situation was to hold them harmless so they would have the same amount of money they had in the current year not in the proposed year. It would not include an inflationary increase like the WPU.

Sen. Hickman stated that if you hold certain districts harmless by giving them more funding than they would have received, under the pure formula, in essence you are taking away from the other districts to hold them harmless. Sen. Hickman felt that due to the upcoming budget cutbacks and funds not being available to hold some districts harmless, the Committee may want to investigate the idea of phasing out the hold harmless philosophy and bring back equity where it needs to be. Rep. Dillree felt that addressing the formula and allowing for flexibility at the State Board is their intention. Sen. Hickman personally felt it is our desire to turn it back to the state school board to make that determination.

Mr. Steve Peterson, Associate Executive Director of Utah School Boards Association and Executive Director of the Superintendents Association, the Utah School Boards Association in the month of June, had nine regional meetings throughout the state in order to determine concerns for the upcoming legislative session. The items which created more discussion and desire was to continue the block grant program concept with increased funding and refine the block grant program and revise revenue distribution by using prior formulas thus enhancing equity.

Sen. Hickman made a motion to make a request of the Legislative Management Committee to allow the Public Education Appropriations Subcommittee to have another meeting prior to the upcoming session. Passed unanimously.

Rep. Dillree asked that the Committee hold further discussion on the items that have been discussed to allow time for Patrick Ogden to discuss additional recommendations from the State Office of Education.

Rep. Buffmire asked staff to mail handouts to all Committee members not in attendance.

Patrick Ogden continued his presentation with the State Board Block Granting Proposal. The items proposed include focusing funding while minimizing categorization, continue legislative efforts, maximize local discretion and control, require accountability, and resolve current block issues. Mr. Ogden explained the new blocks and how they are to be configured.

Senator Hickman made a motion to adjourn at 12:15 p.m.