

**MINUTES OF THE
PUBLIC EDUCATION APPROPRIATIONS SUBCOMMITTEE**

Room 445 State Capitol Building

November 24, 2015

Members Present: Sen. Howard A. Stephenson, Senate Co-Chair
Rep. Steve Eliason, House Co-Chair
Rep. Michael S. Kennedy, House Vice Chair
Sen. J. Stuart Adams
Sen. Lyle W. Hillyard
Sen. Jani Iwamoto
Sen. Daniel W. Thatcher
Rep. Joel K. Briscoe
Rep. Lavar Christensen
Rep. Bruce Cutler
Rep. Rebecca P. Edwards
Rep. Bradley G. Last
Rep. Marie H. Poulson
Rep. Kraig Powell
Rep. Norm Thurston

Members Excused: Rep. Michael S. Kennedy, House Vice Chair

Members Absent: Sen. Aaron Osmond
Sen. Stephen H. Urquhart
Rep. Justin L. Fawson
Rep. Francis D. Gibson
Rep. David E. Lifferth

Staff Present: Mr. Ben Leishman, Fiscal Analyst
Ms. Jill Curry, Fiscal Analyst
Ms. Greta Rodebush, Legislative Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

1. Approval of Minutes

Co-Chair Stephenson called the meeting to order at 8:20 a.m. The subcommittee did not approve the minutes at this time.

2. Property Tax Equalization: Implementation of S.B. 97 (2015 General Session)

Mr. Ben Leishman, Fiscal Analyst, LFA, introduced Ms. Jill Curry as LFA's newest fiscal analyst assigned to the Public Education and the Higher Education Appropriations Subcommittees.

Mr. Leishman provided information on the implementation effects of S. B. 97, Property Tax Equalization Amendments, passed in the 2015 General Session. The bill raised property taxes through the basic levy by \$75 million and distributed the money to certain programs to further equalize local property tax revenues.

Mr. Leishman explained that there were some complications with the implementation of S.B. 97 based on the associated language in the bill, which he later highlighted in his presentation.

Mr. Leishman distributed the document, "[State Guarantee Programs: Voted Local Levy, Board Local Levy, & Capital Outlay Programs](#)," and discussed a series of three tables showing estimated property tax revenue increases and funding allocations by school district for FY 2016.

Mr. Leishman responded to committee questions regarding the bifurcation of the basic levy to local school districts; capturing new tax growth for local property tax equalization; and incentives for local tax efforts. He also explained how the minimum basic tax rate per dollar of taxable value generates revenues statewide in S.B. 97.

Mr. Leishman pointed out that during the 2015 General Session, the Legislature also passed H.B. 2, Public Education Budget Amendments, which established a state guarantee rate different from the state guarantee rate established in S.B. 97. As a result, the Utah State Board of Education has not been able to distribute approximately \$23 million to local school districts. The full distribution of those funds would require increasing the state guarantee rate for the Voted & Board Levy programs from \$33.27 to \$35.55 per Weighted Pupil Unit (WPU). Mr. Leishman said that proposals on how to fix the distribution problem would be addressed during the upcoming legislative session.

The committee discussed making statutory changes to the school minimum basic tax rate; capturing new tax growth for local property tax equalization; extending equalization tax revenues to charter schools; principles driving free public education to all students; the need for transparency and accountability in moving toward equalization; preserving local school district control; examining taxing effort and taxing rates; and discrepancies in the Voted & Board Levy Program caps.

Co-Chair Stephenson asked for a report on how school districts were using increased funding provided through S.B. 97. He requested the information prior to the next subcommittee meeting in January 2016.

3. 2015 General Session Follow-up Items: Utah State Office of Education

The Utah State Office of Education (USOE) provided updates on the implementation of several items discussed during the 2015 General Session. These items included the following: Indirect Cost Pool rates and amounts paid by USOE and Utah State Office of Rehabilitation (USOR); State Board of Education actions on the recommendations of the Free Market Protection & Privatization Board; and the leasing of SAGE questions to other states.

a. Indirect Cost Pool Rates

Mr. Scott Jones, Associate Superintendent for Business and Operations, USOE, explained that a well-qualified firm was conducting an external review of the Indirect Cost Pool. Initially, the USOR had expressed concern about the impact the higher rate of 18 percent would have on the USOR. Mr. Jones indicated that the USOE applied for and received a federal provisional rate that was well within USOR's budget. This rate is effective up to December 31, 2015. Mr. Jones indicated that he would be requesting an extension of the provisional rate until the reviewing firm establishes the new Indirect Cost Pool rates.

b. Free Market Protection & Privatization Board

Mr. Jones reported that the Free Market Protection and Privatization Board held a public hearing to discuss a proposal to charge the districts a fee for the use of ASPIRE student information system. Most of

the public feedback was against charging a fee for the ASPIRE system. To date, the Board has taken no action. One board member asked for information on what districts and charter schools that are not currently using the ASPIRE system, are being charged for meeting the expectations and deliverables for the student information accounts system.

Rep. Ken Ivory introduced Mr. Nathan Andelin who has been involved in the private development of student information systems in Utah and other states. Mr. Andelin expressed concern that government was competing with private industry in providing the same services. Rep Ivory noted that the Board had looked at this issue and determined that this is an area where government is competing with private business.

Mr. Andelin described a broad range of data collection services that his student information system provides to schools and used for State purposes. He remarked the State has been actively developing, promoting, and engaging in business practices which have prevented private entities from growing or coming into the State. Mr. Andelin noted that the Free Market Protection and Privatization Board had recommended the privatization of the State's product and its services.

Rep. Ivory suggested that a legislative audit might be appropriate in determining the true cost of the ASPIRE program.

Mr. Leishman explained how the ASPIRE program is funded through USOE's IT management program.

Rep. Thurston asked for further clarification on the privatization process.

Rep. Rep. Cutler spoke in support of privatization and a legislative audit.

Rep. Edwards was interested in knowing what it would cost to privatize the collection of student data, how provider vs state performance measures compare, and how confidentiality is maintained.

Mr. Brent Page, IT Director, USOE, spoke about student information system standards and data privacy.

MOTION: Rep. Cutler moved that the chairs send a letter on behalf of the Public Education Appropriations Subcommittee to the Legislative Audit Subcommittee requesting an audit of the Utah State Office of Education's Information system to determine the true cost of ASPIRE.

Rep. Briscoe said that he could support sending a letter to the Legislative Audit Committee as long as the audit factored in whether or not local district and charter schools will incur additional costs if ASPIRE is privatized.

Rep. Thurston requested adding a performance audit on the efforts to privatize.

Sen. Hillyard said if we are going to privatize we need to look at how viable the private sector is and what the market might look like long-term. He was concerned that we might lose some control if the program is privatized.

Co-Chair Stephenson pointed out that less than 20 percent (28 percent – corrected) of the school districts are using ASPIRE even though the program is free. The remaining school districts are using other student information systems.

Co-Chair Stephenson restated Rep. Cutler's motion that included the additional committee suggestions as follows:

AMENDED MOTION: Rep. Cutler moved that the chairs send a letter on behalf of the Public Education Appropriations Subcommittee to the Legislative Audit Subcommittee requesting an audit to account for the costs of the ASPIRE Program, the performance of the USOE in looking at privatizing the components of the program, and looking at the impact on the local schools and charter schools that are currently using ASPIRE if it were privatized.

A vote was taken on the motion. The motion passed unanimously.

c. Licensing of SAGE Questions

Mr. Jones gave an update on the licensing of SAGE questions. He explained that USOE had entered into an intellectual property license with the current vendor for the use by several other states of SAGE test items. The states include: Florida, Arizona, Tennessee, and soon to be, Ohio. Mr. Jones made it clear that the licensing of SAGE questions is not necessarily a revenue producing operation but an offset and should not be considered an ongoing source of funding.

Co-Chair Stephenson inquired about the State Board of Education's ability to use those funds for purposes other than offsetting the cost of developing the SAGE test questions. Mr. Jones indicated that the Board had considered using the funds for some higher needs, but he said that it may not be the wisest use of the funds.

Mr. Leishman clarified that during the 2015 General Session the subcommittee passed intent language directing the Utah State Board of Education to use any nonlapsing balances generated from the licensing of Student Assessment of Growth and Excellence (SAGE) questions to other states to develop additional assessment questions and provide professional learning for Utah Educators. Mr. Leishman commented that as per Mr. Jones, there have been some intervening circumstances where the State Board and USOE administrative leadership have identified some critical needs within the agency and used some of the SAGE funds to front current costs, which fall within the same line item.

Rep. Christensen pointed out that SAGE testing was not popular with the people of Utah and questioned the credibility of SAGE testing. He also wondered about offsetting the cost of development by selling SAGE questions to other states.

Rep. Eliason encouraged committee members to go to the USOE website and look at the testing results. He felt that it was important to take a balanced approach to this issue. He congratulated the USOE for coming up with a unique revenue stream for the State that helps offset tax payer dollars.

Dr. Nye, USOE, reassured the subcommittee that the USOE's primary focus is to determine what is in the best interest of our children. He said that the offsets that USOE has received have largely been used for professional development, assessments through achievement, and item development.

Co-Chair Stephenson commented that in light of the public response to SAGE testing, we need to make sure that those opinions are informed. He noted that a parent panel is looking at the SAGE questions.

MOTION: Rep. Poulson moved to approve the minutes from February 2, 2015, February 4, 2015, February 6, 2015, February 10, 2015, and February 12, 2015. The motion passed unanimously with Rep. Christensen absent for the vote.

4. Utah State Office of Education: Financial Management

Ms. Leah Blevins, Audit Supervisor, Office of the Legislative Auditor General (OLAG), presented "[A Performance Audit of USOR's Budget and Governance](#)." She introduced Mr. Tim Osterstock, Audit Manager, Mr. Jake Dinsdale, Staff Auditor, and Mr. Tyson Cabulagan, Staff Auditor.

Ms. Blevins explained that USOR has struggled to manage its budget and has had to repeatedly request additional funds over the last two years. As such, the Legislature requested an audit in February 2015. According to the audit, the two main causes of USOR's recent budget problems can be attributed to a fundamental lack of budget management, oversight, or control within USOR and USOE, and the rise in the number of USOR clients, which increased program costs. The audit also points out that USOR should have implemented a client waiting list to control program costs relative to funding.

Ms. Blevins discussed an audit recommendation to place the USOR within the Department of Workforce Services (DWS). She remarked that USOR's mission is clearly employment-focused as is DWS's mission. In addition, the recommendation to combine the USOR and DWS takes into account a number of existing partnerships and overlapping services.

Ms. Blevins noted that since the problems with the USOR have come to light, the State Board of Education, the USOE, the Superintendent, and the USOR have made significant changes to their operations, oversight, and staff.

Rep. Briscoe spoke in support of making the USOR an independent agency. Sen. Hillyard talked about the funding ramifications of moving the USOR to DWS. Sen. Iwamoto inquired about the maintenance of effort agreement and the federal penalty.

Mr. Derrin Brush, Executive Director, USOR, explained how the maintenance of effort works and how federal penalties apply when states do not meet their obligations. He indicated that the \$5.3 million federal penalty associated with the USOR's inability to pay the maintenance of effort will not be taken out of state revenues. Rather, those monies will be withheld from the following year's grant.

Mr. Leishman offered some final remarks regarding USOE and USOR governance. He noted that while the committee does not have budgetary authority over the USOR, the committee does have budgetary authority over the State Board of Education, which is USOR's governing body. He added that the USOE was tasked with overseeing the USOR's internal accounting.

MOTION: Sen. Eliason moved to open up committee bill to move the operations of the USOR to the DWS.

Rep. Christensen requested more information on the role and functions of the USOR to which Mr. Brush responded.

Co-Chair Stephenson informed that committee that Rep. Eliason's motion was inappropriate because the committee does not have the authority to create a committee file.

Rep. Eliason withdrew his motion. He indicated that he would work with staff to privately open up a bill file that he could potentially come before the Public Education Appropriations Subcommittee in January 2016.

Rep. Christensen expressed his appreciation to the Legislative Auditor General's Office.

Sen. Hillyard stated that he did not want to be approached near the end of the session and told that the USOR had another budget shortfall.

5. Digital Learning Software Update

Co-Chair Stephenson offered some introductory remarks about digital learning and the positive results on student performance when software is introduced with fidelity. He noted that the Digital Teaching and Learning Task Force would be bringing forth some legislation for personalizing learning for every student in the State. The committee heard accountability reports on the following programs:

a. STEM – Instructional Technology in Mathematics

Ms. Tami Goetz, Executive Director, STEM Action Center, explained the extent to which instructional technology in mathematics has been introduced into the schools.

Dr. Sarah Brasiel, Program Evaluator, Utah State University, stated that the supplemental technology products are meant to be used by students from 30 to 90 minutes a week and are not meant to replace core instruction. She explained that her analysis focused on changes in math achievement based on SAGE assessment and included teacher feedback, satisfaction, and concerns. Dr. Brasiel indicated that the technology products are helping students who are meeting the fidelity benchmarks. She also said that teacher buy-in is important along with training and access to technology.

Dr. Brasiel pointed out that STEM needs to provide additional implementation support to integrate these products into the curriculum. If you want to improve achievement, you have to use these products with fidelity.

Dr. Goetz indicated that in the second year two of implementation STEM is asking the principals who oversee schools with licenses, to submit a letter of commitment that they will provide adequate time and support to educators in the classroom to get fidelity use of these products. As far as funding is concerned, STEM would be advocating for additional funding to sustain the licenses for the school districts for year three.

Rep. Eliason was interested in learning which vendors have been working with us and which have not in terms of unused licenses.

Rep. Poulson inquired about the training of teachers on the use of technology in the classroom. She also asked about computer access.

Sen. Hillyard asked about STEM's additional funding request. Dr. Goetz said that STEM had requested \$15 million one-time to cover the licenses.

Sen. Thatcher inquired about teacher access to computers. Dr. Brasiel briefly discussed other usage demands that reduce the availability of computers.

Co-Chair Stephenson said that he had been informed that the committee had the authority to open up a committee bill.

MOTION: Rep. Eliason moved to open up a committee bill to move USOR from USOE to DWS.

Rep. Edwards expressed support for the motion but would be interested in hearing any concerns from the service providers in the disability community.

Sen. Hillyard asked that this bill receive a full hearing in the Senate and House standing committees.

Rep. Poulson said that she would support the motion but requested additional information on the funding mechanism.

Rep. Christensen needed to have a better understanding of who the recipients of these services are in relation to the K-12 education system.

A vote was taken on the motion. The motion passed unanimously with Sen. Adams, Rep. Briscoe, and Rep. Last absent for the vote.

The following additional reports were not heard due to lack of time: 1) Early Intervention Reading Software Licenses, 2) English Language Learner Software Licenses, and 3) Electronic Reading Assessment Tool.

6. Minimum School Program: Oversight of Categorical Program

This item was moved to the January 6, 2016 meeting.

7. Adjourn

MOTION: Sen. Thatcher moved to adjourn. The motion passed unanimously.

Co-Chair Stephenson adjourned the meeting at 12:20 p.m.