

**MINUTES OF THE
JOINT PUBLIC EDUCATION APPROPRIATIONS SUBCOMMITTEE MEETING
THURSDAY, SEPTEMBER 25, 2008, 10:30 A.M.
Room 445, State Capitol Building**

Members Present: Sen. Howard A. Stephenson, Co-Chair
Rep. Bradley G. Last, Co-Chair
Sen. Lyle W. Hillyard
Sen. Patricia W. Jones
Sen. Kevin T. Van Tassell
Rep. Tim M. Cosgrove
Rep. Brad L. Dee
Rep. Lorie D. Fowlke
Rep. Gage Froerer
Rep. Gregory H. Hughes
Rep. Ronda Rudd Menlove
Rep. Karen W. Morgan
Rep. Phil Riesen
Rep. Aaron Tilton
Rep. Carl Wimmer

Staff Present: Ben Leishman, Legislative Fiscal Analyst
Patrick Lee, Legislative Fiscal Analyst
Lorna Wells, Secretary

Public Speakers Present: Patti Harrington, State Superintendent, Utah State Office of Education
Larry Shumway, Deputy Superintendent, USOE
Todd Hauber, Associate Superintendent, USOE

A list of visitors and a copy of handouts are filed with the Subcommittee minutes.

Co-Chair Rep. Last called the meeting to order at 11:10 a.m.

1. Budget Issues

Committee Co-Chair Last welcomed the members of the committee. He introduced Lorna Wells as the secretary. He explained that the Committee would first hear a report from Ben Leishman, the Legislative Fiscal Analyst and then from Superintendent Harrington.

Report from Ben Leishman. Mr. Leishman explained that the handouts are a summary of what is going on with the budget shortfalls and how this will impact education. He referred everyone to the blue packet that was distributed. The first bullet "Special Session to Address State Revenue Shortfall" includes the breakout of the General Fund

and the Uniform School Fund. The Uniform School Fund is where the greater impact lies.

The second bullet identifies what the other subcommittees are doing to address the revenue shortfall. They are reviewing a 3% budget reduction with other possible budget reductions for a possible 4% total reduction. The additional 1% will become an ongoing reduction to the FY 2010 base budget but back-filled with one-time funding in FY 2009.

In Public Education it is recommended that there will be no budget reductions planned in FY 2009. However, an ongoing reduction of 3% will occur but be back-filled in with one-time funding for FY 2009. There is also a discussion of using non-lapsing balances in both the Agencies Budget and the Minimum School Program for a total of \$60 million.

Mr. Leishman outlined some of the other one-time sources that may be available as the 2010 budget is built. It would be up to the discretion of the legislature to use these funds. There is approximately \$234 million in the Education Rainy Day Account and \$100 million that was appropriated in the 2008 General Session for the Growth in Student Population Account.

The second page of the blue handout details a one to five percent reduction of Ongoing Base Budgets for each education line item. The target reduction is 3%, which is the shaded column, for a total of \$75.9 million dollars.

Also in the handout is a line-item proposal that shows the details of the agency cuts as proposed by the State Office of Education. This must be considered by the upcoming legislature.

Included in the packet is the Revised Estimated Revenues from the Executive Appropriations Committee. On the back of that sheet is the Framework Motion regarding the procedures for today. The last part of the packet is a full-color sheet detailing the Minimum School Program. Mr. Leishman then asked if there were any questions.

Rep. Dee expressed concern about the cash reserves. He stated that it is important not to spend Rainy Day Funds for long-term budget situations. He would not want to send a message that Rainy Day Funds are the place to rely on for this situation.

Co-chair Stephenson asked if the delineated items were from the Utah State Office of Education or from the Fiscal Analyst. Mr. Leishman reported that it was prepared from the Fiscal Analyst's office with information provided by the USOE. The USOE prepared reduction scenarios of 1%, 2%, and 5%. The Fiscal Analysts took this information and prepared a 3 % scenario.

State Superintendent Patti Harrington introduced Deputy Superintendent, Larry Shumway and Associate Superintendent Todd Hauber. Mr. Hauber has worked specifically with the fiscal analysts.

Superintendent Harrington expressed the appreciation of the Board and the Utah State Office of Education to the Legislature for holding Public Education harmless. She reported that the USOE immediately froze all travel and hiring in their office until they could look at the budgets more closely. She has directed the Associate Superintendent's over each of the USOE's areas to begin to look at reductions. They will be looking at strategic places that they can cut rather than just a cut across the board. The USOE requests that they have the ability to work with the State Board of Education to make the final determination where the 3 % cuts take place so that the quality of instruction in the classroom is preserved.

Co-chair Last asked to explain how the proposals for cuts were put together, whether it was 3% across the board. Mr. Hauber answered this question by stating that each division leader and section head were asked to determine what they would do to cut 3% out of your budgets. Co-Chair Last further asked if this was general rather than specific, that the USOE hasn't determined that one section could take a cut easier than another. Mr. Shumway replied that some sections of the office are tied to federal funding; so they have a less proportionate amount of state funding. Licensure is funded mostly by fees, so there is not a vast amount that can be cut. Special Education has tremendous amounts of federal funding, so the amount left to cut gets focused in a different way.

Rep. Froerer thanked the analysts and the USOE for their work. He asked what communication has taken place with the local school boards to make sure they are aware of the budget cuts that will have to be dealt with the decreases as well. Superintendent Harrington replied that many of the representatives from the school boards are in attendance today. Education is 85% people intensive which, when cut can directly impact students in the classroom. The USOE is aware that is going to be a difficult task, and is certain that each school district will be aware of the situation.

Sen. Hillyard stated how difficult this process has been especially in such a short time frame. He also stated that he is very concerned with what will happen if revenue continues to go down. It is hoped that this won't happen, that the money will come back. However, if this doesn't happen and if the one-time money is used and the decreases in revenue continue, that will leave very few options in January. It would be a good idea for the USOE and the Committee to determine where cuts can be made so that in January the Committee is prepared to make those cuts.

Superintendent Harrington replied that this is on the agenda for the October 3rd Board

meeting, and that they have to report to the Governor's Office by October 6th on this matter. Mr. Shumway explained that cutting 75 million out of the budget is very difficult. A typical district is spending in the mid 80 % range on personnel. Because of the magnitude of the money, there is really no other place to go than the Minimum School Program for this kind of money. The individual districts can't take that amount of money from the remaining 20%. No matter where the funding comes from, it is going to impact schools.

Sen. Hillyard emphasized that this is exactly why education was held harmless. However, it is important to remember that other agencies are not held harmless and families and children are going to be impacted by these budget cuts.

Rep. Wimmer asked that if in their thinking and deliberation, if it was determined that this is the wisest way to go, \$73 million is a great deal of money. He asked if there is a specific program or programs that could be completely eliminated or cut that would be less damaging to the education for children. This would be more prudent.

Superintendent Harrington replied that there are programs that have not yet gone out. Many of these are in the RFP process. Mr. Hauber reported that most of those items are one time money. In addressing the 2010 budget picture they don't help. Those are some decisions that need to be looked at. Rep. Wimmer asked that as they were looking at this to look at what will be the best for children in the classroom.

Sen. Hillyard asked about the difference in the specific cuts that are listed on Page 2 of the blue sheet between the Target 3% column that is shaded and the Proposed 3% Reductions. The largest differences are in Fine Arts Outreach and Science Outreach. Mr. Hauber reported that they did look into line items, and looked at the Target amount of 3% and made some adjustments in those areas that were identified as the Proposed 3% Reductions. This may not always be a straight 3% cut, but some adjustments have been made.

Sen. Hillyard further asked about the last column on this sheet that is labeled Non-Lapsing Balances and asked if the USOE agrees that there is approximately \$60 million in non-lapsing balances. Mr. Hauber indicated that the numbers are accurate. Sen. Hillyard continued by asking if those funds are committed to specific programs. Mr. Hauber mentioned that approximately \$52 million in Uniform School Fund balances remain uncommitted, with \$50 million being used towards the shortfall. Mr. Hauber discussed the \$10 million in General Fund balances; the \$6.8 million that is in the Law, Legislation & Ed. Services is carry forward from H.B. 181 in the 2006 session for UBSCT remediation. Those are the stipends that were made available for students to hire teachers and tutors to be successful in passing that exam. This is money that is set aside

for a program, but it is not money that is committed that there is someone in line who has made application and is expecting those dollars. There is also about \$400,000 for the Carson Smith Scholarship program. Those are the closing balances from prior appropriations which aren't committed to a specific scholarship.

Co-Chair Last asked for public comment. There was no public comment made.

Co-Chair Last returned to the committee for discussion.

Co Chair Stephenson mentioned that these are difficult times. He expressed appreciation to the Legislative Leadership and Governor for calling the Special Session.

Co-Chair Stephenson stated that it is very prudent and essential to take this direct action at this time. However, because the reduction is being backfilled, the Committee is not required to define the specific items during the special session. He proposed that the Subcommittee meet before the General Session and determine where reductions will be made.

MOTION: Co-Chair Stephenson moved that the proposed cuts shown on Pages 12 and 20 of the aforementioned handouts of the 3% State Agency Cut Proposals Ongoing General/Education Funds be recommended and reported to the Executive Appropriations Committee. In addition, that the Committee will anticipate working between now and the General Session on how these reductions will affect the base budget for the coming year. It is important for the Committee to own this responsibility.

Rep. Wimmer spoke in favor of the motion. This is wise and prudent and addresses the concern of having feedback from the State Offices in knowing if there is an area that could be cut more and one that could be cut less that would cause less harm. He would support the motion.

Rep. Cosgrove asked for clarification on the Base Budget Reductions and the funding being used for backfill. He wanted to ensure that the backfill funding is not coming from the Rainy Day Fund.

Sen. Hillyard responded that the Committee doesn't know exactly where the money will come from. It could come from the \$60 million of nonlapsing balances. The other funding could come from one-time sources that might be identified.

Rep. Tilton asked for a clarification on the motion. He wanted to know if this is being called a preliminary or proposed budget cut or what is this transaction going to be called.

Co-Chair Stephenson answered that this would be the Committees' recommendation to the Executive Appropriations Committee for their action in preparing the Legislation for this Special Session.

Rep. Tilton asked if specifics would be discussed on the Floor.

Co-Chair Stephenson answered that right now everything is going to be backfilled. The amounts discussed are not reductions in current spending.

Rep. Tilton asked if this would only affect spending for the next fiscal year forward.

Co-Chair Stephenson replied that it is anticipated that the base budget for the coming year will have to be reduced by these total amounts. Because of this, this Committee will have some ownership in the reductions that take place in the Base Budget for the coming year.

Rep. Tilton mentioned that the answer to Rep. Cosgrove's question is that it is somewhat like "Paul taking from Peter."

Mr. Leishman wanted to make a clarification regarding Rep. Tilton's question. With the approval of this motion, these numbers will most likely show up in a bill that will be seen tomorrow. This will reduce the negative on-going reduction with a positive one-time backfill. In the 2010 budget, all of the budgets are open and reductions will be determined by the Legislature. The Committee can determine to move among line items and to implement any recommendations that come from the State Board of Education in creating the new budget.

Rep. Morgan asked for more clarification on the motion. She wanted to make sure that the motion included the discretion that the committee can come back and determine what the exact amounts are, so this can be referred to as the Base Budget. It is important that there is no confusion that as we vote on this motion that these are laid out as priorities; but we need more input from the State Board. She asked if that is part of the motion

Co-Chair Stephenson replied that the motion implied that these amounts are not set in stone. For example the 73.1 million is currently undefined. In the legislation this is one figure, that leaves many questions about the specifics in the coming year's budget. The motion anticipates that the Committee would have the prerogative to recommend how these would affect the Base Budget in a more finite way.

Rep. Morgan wanted to make sure that this is the case. She had another question regarding the \$100 million that was set aside last year. She asked if that would be the money that would be used to backfill.

Sen. Hillyard replied that the \$100 million is money sitting in reserve that could possibly be used.

Co-Chair Last replied that to some extent this is an accounting exercise. There is \$100 million available; but for the year that just ended, the budget is \$83 million short, which has to be covered.

Rep. Morgan stated that there are some places where there is money for the backfill. The Superintendent mentioned various new programs with one-time money. There are some programs where money has been appropriated, but they have not yet been started up.

Sen. Hillyard responded to Rep. Morgan's suggestion. If money is taken from an existing program the Governor's principle of holding education harmless has been violated. If money is taken from Public Education whether it is nonlapsing funds or a program that was funded but not yet started, it is still money out of Public Education, which means the commitment of the Legislative Leadership to the Governor has not been kept.

Sen. Hillyard asked for some clarifications on the numbers regarding the Schools for the Deaf and Blind, Student Achievement, Fine Arts Outreach, and Science Outreach. He wanted to make sure that all of these numbers do add up correctly. The proposal is referring to the proposed numbers, not the dark column.

Mr. Leishman clarified and confirmed that the totals on both of the sheets were correct. He further explained which items were included in the totals. The totals are listed above each set of program breakdowns on the sheet.

Rep. Wimmer asked for clarification about the cuts in Education Contracts on the blue sheet shown on Page 12. Mr. Leishman reported that they are Line 323 of Page 12. Mr. Wimmer wanted to report that \$1 million taken out of the USDB would be very devastating. He recently visited there and found teachers painting the walls due to the lack of janitorial staff. As cutbacks are made, please look at a different place.

Rep. Morgan commented that she strongly believes that if there are places that can be cut, and there is \$20 million and no one in particular is counting on that money; then that money should be used to assist with the backfill. If the RFP's haven't been put out, this would be a possible source. The State Office could look closely at these items.

Rep. Menlove asked for clarification that these are proposed cuts; and that there will be opportunity to discuss these at length.

Co-Chair Stephenson responded that this is exactly why the motion includes the anticipation of looking closely at these reductions in future meetings. None of the agencies involved should leave this session feeling that these are going to be permanent reductions in their Base Budgets. The committee must take the time to look at exactly the things that Rep. Wimmer pointed out regarding the School for the Deaf and the Blind and take this responsibility seriously.

With reference to Rep. Morgan, this is very likely not the end of the downturn, and in January it might be necessary to come back and look at other reductions as well. This is why it is important that some of the revenues are held in abeyance, for example the Rainy Day Fund. As an outgoing legislature, it is important for us to make proposals to the new Legislature based on what is known.

Rep. Menlove expressed appreciation and respect for the great work that has been done. This has been a very quick process, it would be good to have other school districts, constituencies, administrators and school boards to have input into this process.. These are proposed; there will be opportunities for all of these groups to be involved.

Rep. Riesen commented that based on Rep. Morgan's comments that it might be helpful that before the afternoon meeting that a list of the programs mentioned that have not gone out of RFP.

Rep. Dee replied that if individual programs are going to be looked at then it is necessary to look at every single program. Some programs were mentioned such as UpStart , the RFP went out but came back because there are problems with it. It should not be cut just because it was the last one that went out. Rather than this, the proposal is simply that \$73 million is going to come out of Minimum School Program and \$2 million out of the Agency Budget. The detail for this amount is undefined.

Sen. Jones proposed that a hold be placed on everything right now. If there is an RFP that hasn't gone out; why can't a hold be placed on it? It is going to be necessary to put priorities on everything. Instead of going forth with something that has not been allocated, be judicious in how this money is spent.

Co-Chair Last responded that it is necessary for us to have a proposal before tomorrow. If individual programs are analyzed, it might be difficult to have this completed by tomorrow.

Co-Chair Stephenson replied that the Legislature sets the budget. In HR there is a copout; last hired, first fired when it comes to RIF; but what this avoids is the responsibility that the employees that are kept are those that are contributing most to the

organization. He believes this is a bad practice. It would also be bad to assume that whatever was last funded is the first to be cut. There are perhaps areas that have been in practice for years that need to be eliminated. Given that this is backfilled, the Committee is looking at the coming year's base budget. He resists trying to jettison items without more details due to the time pressure of this Special Session. This proposal allows the Committee to take some time to look at specific details between now and January.

Sen. Jones replied that everything should be on the table. Everything should be evaluated; and recommendations from the Education community be evaluated.

Co-Chair Last asked Senator Stephenson to restate his motion.

MOTION: Co-Chair Stephenson restated the motion: To recommend to the Executive Appropriations Committee Page 12 and Page 20 of the handouts. Page 12 is the 3% State Agency Cut Proposals Ongoing/General Education Funds. Page 20 is the One-time Sources from the General and Education Funds. In addition, the Subcommittee will continue in this process to further look at these items to recommend before the January session begins where these modifications should be made permanent in the coming year's Base Budget.

Motion passed unanimously.

MOTION: Sen. VanTassell moved to recess the meeting until Caucus is over.

The motion passed unanimously.

The meeting was recessed at 12:20.

Minutes were reported by Lorna Wells, Secretary

Senator Howard Stephenson

Representative Bradley Last