

**MINUTES OF THE
JOINT PUBLIC EDUCATION APPROPRIATIONS SUBCOMMITTEE MEETING
MONDAY, JANUARY 12, 2009, 8:00 A.M.
Room 445, State Capitol**

Members Present: Sen. Howard A. Stephenson, Co-Chair
Rep. Merlyn T. Newbold, Co-Chair
Sen. Lyle W. Hillyard
Sen. D. Chris Buttars
Sen. Karen W. Morgan
Rep. Tim M. Cosgrove
Rep. Lorie D. Fowlke
Rep. Kevin S. Garn
Rep. Francis D. Gibson
Rep. Gregory H. Hughes
Rep. Bradley G. Last
Rep. Rhonda Rudd Menlove
Rep. Marie H. Poulson
Rep. Phil Riesen

Members Excused:

Members Absent: Rep. Rebecca D. Lockhart

Staff Present: Ben Leishman, Legislative Fiscal Analyst
Patrick Lee, Legislative Fiscal Analyst
Karen C. Allred, Secretary

Public Speakers Present: Debra Roberts, Chair State Board of Education
Greg Haws, Finance Committee Chair, State Board of Education
David Thomas, Finance Committee Vice Chair, State Board of
Education
Dr. Larry Schumway, Deputy Superintendent, Utah State Office of
Education

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

Co-Chair Stephenson called the meeting to order at 9:34 am.

1. **Welcome and Introductions** – Sen. Stephenson welcomed all those present to the meeting and had each of the Legislators and staff introduce themselves. Sen. Stephenson asked Debra Roberts, Chair, State Board of Education, to introduce those present from the State Board of Education: Greg Haws, Chair Finance Comm.; Dave Thomas, Vice Chair Finance Comm and Legislative Liaison. Chair Roberts expressed appreciation for the support of the committee for public education. Co-Chair Stephenson introduced the State Superintendent,

Patty Harrington, and also Larry Shumway, Deputy Superintendent and Todd Hauber, Associate Superintendent over finance. Co-Chair Stephenson recognized the representative of the Governor's office, Michael Kjar and Christine Kearll as the Governors Education Director. A representative of the State School Boards Association, Steve Peterson, was introduced as well as other members of the association welcomed.

2. **Approval of Minute** – Minutes were not approved at this meeting, but would be approved at the next meeting.

3. **Budget Overview** – Ben Leishman, Legislative Fiscal Analyst, distributed a handout and discussed how funds are appropriated for the legislative subcommittees. Funds are discussed and appropriated for two years, the current year FY2009 and FY2010, which begins July 1 and ends June 30 of the year named. State economists from the Governors Office of Planning and Budget, the Fiscal Analysts office and the State Tax Commission generate a consensus revenue estimate which serves as a target for appropriations, which may result in revenue surpluses, or shortfalls as is the case this year. The December 2008 revenue update resulted in a revenue shortfall of \$350 million in FY 2009 and an additional \$100 million in FY 2010. Public Education makes up 33% of all appropriations made by the Legislature each year and also receives the highest appropriation in state funds. The Executive Appropriations Committee set subcommittee targets of 7.5% in FY09 and 15% in FY2010 reduction in funds. The Legislative staff produces documents that help the subcommittee in the appropriations process. One of these documents is the Compendium of Budget Information (COBI) which provides background and context, legal authority for programs and funds, provides explanation of special funds, previous legislative intent and budget histories and is available on-line. Other documents provided include: Budget Briefs, which highlight current budget issues; Issue Briefs, which explain cross-committee issues; and Ad hoc reports at the request of the subcommittee chairs, Executive Appropriations or caucus. To build this years budget, the staff had to assume that the current tax laws stay in effect, with no tax earmarks and/or increase or decrease in taxes, and that there are no across-the-board actions, like salary decreases or benefit changes, and that rainy day funds or bond proceeds will not be used. This information is intended as a starting point for considering allocation of funds.

Sen. Stephenson introduced the Director of the Legislative Fiscal Analyst Office, Jonathan Ball, also known as “the” Fiscal Analyst.

Sen. Buttars commented that this report projects the short fall at 19% over two years, and wondered if that is correct. Analyst Ben Leishman responded that the special session cut the on-going budget by 3% and now we are looking at an additional 15%, making the total 18 or 19% over two years.

Rep. Newbold commented that the committee needs to realize that the budget for FY2009 is an additional 7.5% cut added on to the 3% that was cut in the special session in November.

Sen. Stephenson invited the representatives of the State School Board to present their information to the committee. Debra Roberts, Chair, State Board of Education introduced Greg Haws, Finance Committee Chair, State Board of Education to discuss the motions made at a School Board meeting held last Thursday.

The question posted to the State School Board was how would they deal with this budget reduction no matter what the percentage turned out to be. The Legislature makes the appropriation, which flows to the State Board of Education. Based on formulas and the weighted pupil unit, that money is allocated to the school districts. It is the school districts that actually spend the money. This has been discussed with the school districts, boards associations and superintendents associations over several months, and the State School Board has been encouraged in each meeting to allow the local boards to have the flexibility to make the adjustments as they see fit. Some districts have surpluses and can dip into their rainy day funds. Other districts have no surplus and would be forced to make cuts in programs or personnel. They are all required to balance their budgets. It has been requested that the adjustments for FY2009 be proportional to the total, based on the amount of funds going to local districts and charter schools. The School Board is encouraging the individual school districts and charter schools not to unilaterally reduce all "below the line" (specific legislative line item programs) activities and programs, but preserve instructional efforts, class size and teacher salaries. The school districts and charter schools will then be asked to report back to the State School Board how these cuts were made, and the school board will then report back to the subcommittee. In looking ahead to FY2010 budget cuts, the board would then again leave it to the school districts to make the decision, but would have more time, and ask the school districts to let them know ahead of time what they propose. The State School Board would then organize a committee that would involve the state board leadership, the finance committee members, the chairs of the joint legislative committee, legislative leadership to sit with them as they discuss these plans, so that there is a meeting of the minds as far as the reductions, specifically referring to the "below the line" initiatives.

The schools are a week away of their half way mark, so a 7.5% reduction in the last half of the year is a great challenge. Most of the expenditures are for salaries and benefits of educators and are contracted, they are not true variable costs. Teachers or programs would have to be eliminated. They have determined that they could save about 12.5 million if they reduced a day of school, which is something that would have to be considered. Reducing personnel would impact the lower grades, because the classes are already in place at the secondary level, where as minimizing 3 classes of 22 children into two classes of 33 in an elementary school would be more of an alternative, but painful nonetheless. This reduction will affect charter schools where many of them are operating on the edge of their budget.

Dave Thomas, State Board of Education made the comment that because schools are so late in FY09, they don't have the time to figure out cuts, so across the board cuts are necessary for FY09. Personnel contracts may have a non appropriations clause which would not allow a salary reduction on the FY09 contract. They do not know if this is the case.

Sen. Buttars requested some examples of "below the line" items. The response from the Board were that they have a list of 15 "below the line" items, which are: transportation, math and science recruitment, concurrent enrollment, block grants for quality teaching, local discretionary intervention, highly impacted schools program, youth at risk programs, adult education, gifted and talented program, AP program, charter schools, electronic high school, reading program, school land trust program (comes from other funds), library books, school nurses and critical languages pilot program.

Sen. Stephenson questioned if the Board is suggesting that discontinuing some of these "below the line" programs means that money could be allocated to other areas. The response was that the Board does not know. They don't feel they have the ability to dictate what happens, but will report on what happens. The subcommittee could require all the cuts to be made "above the line", but the board is not suggesting the committee do that.

Mr. Thomas would encourage the districts to not eliminate "below the line" programs with the understanding that it would be counter productive to eliminate these programs only to have them reinstated the following year. This is an ongoing process, and school districts should look at everything. The Board is asking the committee to trust the local school boards and they have told the local school boards that this is a test for them. Chair Roberts commented that when the local school boards are given the choice it actually shows what they value.

Sen. Stephenson questioned if the money could be withdrawn from the school districts where programs are not effective and reallocated elsewhere.

Sen. Buttars questioned if there is a dollar figure for the percentage to be cut. The Board responded that the dollar amount is \$193 million from the districts and another \$12 million from the charter schools. This is the dollar amount of 7.5% cut for FY09.

Sen. Hillyard commented that he appreciates the challenge of the cuts. He has 3 concerns: (1) We need to have specific language in the bill to pass the base budget, which needs to be passed in the first 10 days of the legislative session. (2) He hopes that the school districts are aware of the revenue short falls and have already made plans. Those that have planned ahead and have been prudent need to be rewarded. (3) We need to keep in mind that we do not know what the revenue projections are going to be in February. We want the school board to make the decisions, but we have to draft a bill that is broad enough or specific

enough to cover the items. Mr. Thomas wanted clarification from Sen. Hillyard if he wants to know specific percentage cuts in each line item. Sen. Hillyard said yes as much as possible while still having the schools decide the specifics. Make it as specific as possible, but still keep the flexibility.

Rep. Garn questioned when we meet in January to pass the supplemental bill to close out the books for FY09 is the money there. We will be 7-8 months into the fiscal year, is the \$70 million there to cut? Mr. Haws commented on what a challenge that is and 80% of this money goes to contracts and benefits that can't be used. Mr. Thomas commented that it depends on if there is a clause in their contracts or not. Rep. Garn would like to have clarity at the next meeting. Mr. Thomas responded that in FY09 they want to do across the board cuts, and in FY10 they can make more specific plans. Mr. Haws made the comment that there is still \$1.3 billion not distributed, so cuts can be made, but he does not know what the impact would be. Rep. Garn questioned if the districts are preparing for the cuts. Mr. Haws said they are, but not this drastic of a cut. Chair Roberts commented that the districts are expecting more of a 3-4% cut, not a 7.5%.

Rep. Menlove questioned the involvement of local school boards in this discussion. Mr. Haws responded that they meet with them often and they have been involved in the discussions. Rep. Menlove questioned if the local school boards were willing to defray cuts with local dollars, and stressed we need to make sure we don't punish people who have made adjustments, or bail out those who have not. Mr. Haws commented that is why an across the board cut is helpful for a proportional cut. Rep. Menlove questioned the impact of the cut from the districts, and could some scenarios be put together on the kinds of impact the cuts have created. Her second question is what are ideas of other sources of funding for the committee and what are some creative solutions? Mr. Haws doesn't know the impact until the process is completed, and is suggesting that the Board report to the committee after the fact.

Rep. Riesen wanted clarification of the specific dollar figure for the 7.5% cut in FY09 and the 15% cut in FY10. The response from Mr. Haws was that from the local districts \$193 million and from the charter schools \$12 million totaling \$206 million. Mr. Haws indicated that this is not a year to start new programs or initiatives, but just trying to maintain the momentum that has been generated. Mr. Thomas commented that we are looking at \$420 million less for FY10, plus enrollment growth and insurance which is \$116 million. If we are going to stay steady and have no increases at all, then the \$116 million will be added on, making the total approaching \$600 million for FY10. Mr. Haws commented that if the growth is not funded then the 15% cut becomes an 18% reduction.

Sen. Stephenson commented that the Fiscal Analysts have a handout that was distributed that may help clarify the question that Rep. Riesen just asked.

Analyst Ben Leishman discussed that the handout is the numbers that staff has been working with to recommend to the committee. The handout shows the 2009 appropriated on-going and one time base of total state funds, the 3% that was taken from that base and back filled with one time money, the FY09 target reduction of 7.5% and the FY10 target reductions of 15% in the specific line items for Public Education.

Rep. Last questioned if there is any way that the 7.5% reduction in the FY09 budget could be made without hitting compensation. Mr. Haws responded that only if the districts have enough reserves to back fill, which is highly unlikely. Rep. Last questioned what the savings would be if we reduced the number of school days. Mr. Haws responded that the savings would be \$12.5 million per day, not including utility costs and other costs if schools were actually shut down. Rep. Last wondered if there would be any difference in reducing the number of hours or reducing salaries. He would like to know how much would salaries have to be decreased to get to the target. Rep. Last feels there are really two options: (1) reduce compensation or (2) back fill with one time money, and he is concerned that this option will not really be available, only some of it, if any. Mr. Thomas commented that the real question is whether the contracts allow the salary reduction. Rep. Last wondered if the contract will allow for a reduction in the number of days. Sen. Stephenson commented that the contract is an overall salaried contract, not by hours. If there is a non-appropriation funding clause in the contract then you could pay less. These are outside of staff, separate from the teacher salaries, and that compensation probably could be reduced. Mr. Haws commented that in actuality you could eliminate a teacher easier than lower salaries of all teachers. If a day were cut out, it would have the same impact on the teachers, but it doesn't violate the contract. Rep. Last commented that we need to be realistic about the number and size of the cuts.

Sen. Buttars commented on eliminating entire programs. Not every program that is taken on is effective. Does eliminating a program violate a contract? Mr. Thomas responded probably not, it depends on the contract. Sen. Buttars commented that every program needs to be looked at and some will need to be cut. Chair Roberts commented that we don't want to cut programs at the state level where we don't understand the achievements at the district level or the impacts of cutting them. That is why the Board is trying so hard to leave these decisions up to the districts. Sen. Stephenson commented that the staff will be giving the committee a working list of these programs.

- 4. FY09 Supplemental and FY10 Base Budget Options** – The analysts distributed several handouts to the committee. The pink sheet is an overview of where we started and where we are going, and details budget reductions. The green sheet is an overview of the entire education budget. It starts at a big picture perspective and drills down to each major program within the budget. The blue sheet is an appropriations history of all funds from 1990 to 2009, and on the back is a WPU history, the value of the WPU since 1973. The

next handout is a spread sheet that details the reductions made by the subcommittee in the special session in 2008. The funding was cut ongoing, back filled with one time funds and there was no FY09 impact to Public Education. This sheet also explains how funds would be distributed in 2010. The subcommittee wanted to reserve the right to change the options and unless the subcommittee changes it, these are the cuts that will be made.

Rep. Fowlke questioned if the federal funds that are part of our budget are being cut. The response from staff was that they have not heard of any being cut. Sen. Stephenson reported that it is part of the corporate stimulus package to keep those whole.

Analyst Ben Leishman continued that the Minimum School Program cut (line 328 and 329) was not allocated to any program, just reduced the ongoing funding. The allocation among the programs of that reduction still needs to be determined by this committee. The School Building Program (line 329) was decreased in the special session. It came to the attention of the Analyst that many schools have bonded against this money and the committee needs to look at including any ongoing reductions of the school building program in the general Minimum School Program or hear information from the State Office of Education on how many districts that may impact. The last handout is the Education section of a much larger document that details all of the staff budget reduction starting points for the subcommittees. Staff worked with the State Office of Education on agency budget reductions, specifically the State Office of Education, Schools for the Deaf and the Blind, Child Nutrition, Education Contracts, Fine Arts and Science reductions to The Minimum School Program, recommended by the analyst.

Analyst Ben Leishman discussed the items in the Minimum School Program reductions and how he came up with the totals of the 7.5% reduction in the current year on lines 896, 908, 914, 917, 920 and 921. Line 914 was a part of a new program, one time funding, which may not be there. Staff is checking with the State Office of Education on whether or not that grant was given out. If it has been, then the committee needs to look at a larger proportional funding decrease. Line 917, is the \$2,500 given to each teacher in 2008 and \$1,700 given to each teacher in 2009. The statute was changed to where school administrators were excluded from the \$1,700 given last year, but because of that it also removed the school administrators from the \$2,500, which was not the intent of the legislature, so that is to be added back in as approved by the Executive Appropriations Committee in December 2008. The 15% total reductions for FY10 are lines 899, 902, 903, 905, 908, and 911. The subcommittee started in the November 2008 meeting a process on how to handle the reductions. The subcommittee decided at that time, to cut all programs equally, except for four. The first is the School Land Trust money, which is dedicated funding from the trust lands that were given to the state at statehood, the interest and dividends off those accounts. It is restricted to general distribution to school districts to fund their school community councils. The second is Charter School Local Replacement Funding. This program replaces

local funding that charter schools do not have access to based on a formula that focuses on the level of property tax revenue generated in each school district. As property tax revenues decrease, assuming they do, charter schools will be hit at that time. The remaining two programs include Education Salary Adjustments and the Voted/Board Leeways.

Sen. Stephenson questioned whether we rely on this list being the options available or are there other things that need to be added. The response from the analyst was that this was a starting point and not a comprehensive list. Sen. Stephenson commented that if the committee starts with the list they are basically taking the analyst's recommendations. Often a starting point becomes an ending point. He would like staff to bring a broader list of potential areas that can be considered in the MSP.

Rep. Newbold commented that we don't want to take any final action today, but this is an initial thought of ways we can meet our revenue projections. She would like to see the committee be open to any suggestions from the committee, the School Board or the community of ways that we could meet revenue shortfalls.

Rep. Last wondered if we could have detailed "above the line" and "below the line" lists of programs by our meeting this afternoon. Sen. Stephenson responded that staff did have such a list with them, which they will distribute to the committee.

Rep. Gibson questioned if the 12.6% decrease potentially on the WPU, would actually bring us back to approximately the FY06 budget. Ben Leishman responded that yes it would.

Analyst Ben Leishman explained the handout distributed contained revenue sources for the Minimum School Program, the Basic School Program – WPU Driven programs "above the line", then revenue for the "below the line" programs, voted and board leeways, and finally the one time funding programs. The handout shows the FY09 7.5% reductions, the FY10 after the 2008 special session 3% reduction, and the FY10 reduction of 15% for all of these programs.

Sen. Stephenson commented that this handout would be much longer and more complex had not the legislature collapsed 22 of these "below the line" programs into four block grants.

Ben Leishman explained the second page of the handout. The top section is a combined 3% special session and 15% target reduction. All of the "below the line" programs are shown reduced at 20% and took the remaining out of the WPU driven programs, which reduces those to 15%.

Sen. Buttaris questioned if the one-time teacher bonuses disappears. The response by Sen.

Stephenson was yes, but it has not be allocated yet. The State School board in its December 2008 meeting took action to hold that since it couldn't be distributed until the end of the school year, so the legislature could decide whether it should be sent out this year or not. It was explained that part of the total listed has already been distributed, the other is being held. Ben Leishman recommended that this be eliminated, although it doesn't show up here because it is non-lapsing balances from the Minimum School Program. Sen. Stephenson explained that these are one-time funds and would be eliminated, therefore it doesn't "plug a hole" for reductions in the future.

Rep. Cosgrove requested clarification that every 1% is \$25 million in dollar amounts. The response from Ben Leishman was that \$25 million is the cost to increase the value of the weighted pupil unit by 1%. So it increases all of the "above the line" programs by 1% and some of the "below the line" programs. It is a little different than 1% of the total in dollars going out. Rep. Cosgrove commented that on the other handout on line 899, 1% student teacher ratio, is that \$25 million? The response from Ben Leishman was that it is a 1% decrease in all funds in the Minimum School Program. The FY2010 base in the Minimum School Program is \$2.3 million, so a 1% decrease in Minimum School Program funding would be about \$24 million.

Steve Peterson, Utah School Board Association, (also works with the Superintendents throughout the State) spoke about the results of a joint legislative committee of School Boards Association, School Superintendents Association and Utah School Business Officials Associations. They put together proposals for the committee relative to budget cuts. It is in draft form, but Mr. Peterson will share the information with the committee. Mr. Peterson read the proposal which expressed appreciation to the legislators on behalf of over 500,000 students, local school board members, and superintendents in Utah's 40 school districts, for their consideration in these economic hard times and their effort to minimize cuts that directly impact students and classrooms would be appreciated. The proposal expressed that these people accept responsibility to work cooperatively in the budget cuts and adjustments. As decisions are made concerning future budget adjustments they ask that the legislators consider the following: (1) the critical nature of public education in Utah. They hope that every effort is made to use ongoing revenues to fund critical programs. (2) Flexibility at the local level in adjustments. The unique differences in Utah's 40 school districts necessitates that the budget adjustments decisions be made at the local level. (3) Timeliness of budget adjustments. Large midyear adjustments are extremely disruptive and ask for as much prior notice as possible, and where possible major adjustments be made to future annual budgets.

Rep. Riesen commented that individual school districts could save us time and work if they could figure out a way individually to made the cuts according to how much they receive, a certain percentage. Educators are better equipped to figure out the cuts than law makers.

Could they come back to us at the next meeting with these suggestions. Sen. Stephenson asked to make this a formal request.

Dr. Larry Shumway, Deputy Superintendent, Utah State Office of Education, has been preparing an email to go out to districts requesting them to send information on their intent for a current fiscal year of 4.5% and 7.5% cut, that can be summarized and given to the committee at the next meeting. Sen. Stephenson noted that this request be to all public schools including charter schools.

Rep. Newbold commented that even though we have this request from the school districts that those districts also visit with their legislators and that each of the legislators will take time to understand what the reductions will do, and what they mean to the individual school districts.

Sen. Stephenson requested that we go back to the handout concerning the staff budget recommendations. Ben Leishman explained the funding recommended for the agencies on lines 893 – iSEE – across the board decrease, 926 – POPS and iSEE RFP Programs and line 923 – POPS. Analyst Patrick Lee explained that he worked closely with the State Office of Education in developing these recommendations, and explained lines 881, 884, 887, and 890. On page 42, he discussed lines 962, 965, 968, 971, 974, 983, 986, 989, 992, 995, 998, 1001 and 1013 and asked the committee to look through the rest. The total staff reductions at the State office will be approximately 18 FTE. On page 41, the Utah Schools for the Deaf and the Blind has been tiered according to impacts for 7.5% in FY09 and 15% in FY10. Because of the way programs are structured, some programs can have portions cut, others have to be eliminated totally.

Sen. Stephenson questioned whether we needed to come back this afternoon, or whether to extend the discussion next week. All of the information that the committee has outlined has been discussed.

MOTION: Sen. Buttars moved that we do not come back this afternoon.

Rep. Newbold wants the committee to know that the chairs are not trying to limit the discussion. She would encourage members to study the information they have been given. Sen. Stephenson encouraged the committee to get with different interest groups and caucus to discuss further.

Rep. Riesen questioned that when we meet on Jan. 21, will that be the day that we need to make final recommendations that will be presented to Executive Appropriations? The response was that information is correct.

Rep. Newbold asked if there was any additional information that the committee members would find helpful in coming to a conclusion? Rep. Riesen responded that the report from the State School Board of Education would be extremely helpful to understand what each school district could cut without horribly impacting students. But that won't come until next meeting. Sen. Stephenson commented that in the first part of our next meeting we should hear reports like that and also from the agencies themselves as to what these reductions might do. Rep. Fowlke commented that it would be helpful if these reports could be sent by email so that they could look at them before the meeting. Sen. Stephenson agreed and requested staff to send by email any reports they receive prior to the next meeting, and also if the public could email the committee as well. The committee really wants to hear the public's input. Rep. Gibson commented that the more information they can get before the next meeting the more prepared they can be for the meeting.

Rep. Cosgrove questioned if all line items are on the handout. He doesn't see Up Start, not looking to identify anything individually for a budget cut, but just to make sure everything is on the table. Ben Leishman responded that the list only identifies the items recommended by the analysts and USOE. It does not include all items funded by the Legislature in the last couple of years. If the committee would like to have a list of all items funded in the last couple of years they can bring it to the next meeting.

Sen. Stephenson returned to the motion.

The motion passed unanimously with Sen. Hillyard and Sen. Morgan absent for the vote.

MOTION: Rep. Hughes moved to adjourn.

The motion passed unanimously with Sen. Hillyard and Sen. Morgan absent for the vote.

Co-Chair Stephenson adjourned the meeting at 12:07 pm.

Minutes were reported by Karen C. Allred, Senate Secretary