

MINUTES  
JOINT MEETING  
OF THE  
HOUSE AND SENATE INTERIM COMMITTEES ON EDUCATION

ADEQUACY

Tuesday, March 13, 2012  
9:00 A.M.  
Room 171, State Capitol  
Little Rock, Arkansas

Senator Jimmy Jeffress, the Chair of the Senate Interim Committee on Education, called the meeting to order at 9:00 a.m.

**MEMBERS OF THE SENATE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE:**

Senator Jimmy Jeffress, Chair; Senator Mary Anne Salmon, Vice Chair; Senator Kim Hendren; and Senator Johnny Key.

**MEMBERS OF THE HOUSE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE:**

Representative Eddie Cheatham, Chair; Representative Johnnie Roebuck, Vice Chair; Representative Duncan Baird; Representative Jerry Brown; Representative Les Carnine; Representative Ann Clemmer; Representative Robert Dale; Representative Jane English; Representative Debra Hobbs; Representative Karen Hopper; and Representative Tommy Wren.

**NON-VOTING MEMBERS OF THE HOUSE INTERIM COMMITTEE ON EDUCATION IN ATTENDANCE:** Representative John Catlett; Representative Jeremy Gillam; Representative Homer Lenderman; and Representative Tiffany Rogers.

**OTHER MEMBERS OF THE GENERAL ASSEMBLY IN ATTENDANCE:** Senator David Wyatt; Representative John Burris; Representative Efreem Elliott; Representative Billy Gaskill; Representative Kim Hammer; Representative Jon Hubbard; Representative Sheilla Lampkin; Representative Buddy Lovell; Representative Mike Patterson; Representative Bobby Pierce; Representative James Ratliff; and Representative Jeff Wardlaw.

Overview of Adequacy Requirements and Education Funding

**Ms. Jerri Derlikowski**, Administrator, Policy Analysis and Research Section, Bureau of Legislative Research, was recognized. Ms. Derlikowski gave a brief overview of the Adequacy Study and its components so Committee members could better understand the reports being presented. She said the reports started in November 2011 and will continue through the end of October 2012, with the final report due November 1, 2012. She commented that the components would be best understood by looking at the law to see what they must cover and how they fit into the requirements for conducting the study. She referred to the *Continuing Adequacy Evaluation Act of 2004* in the members' packets. She said this Act is in Title 10, the law concerning the General Assembly, because it's the responsibility of the General Assembly to conduct the Adequacy Study. She reviewed eight (8) items in Section 10-3-

2102 that each Adequacy Study must cover, and discussed reports that need to be done to accomplish those eight (8) tasks. Finally, she pointed out that Section 10-3-2104 contains the requirement that the House Interim Committee on Education and the Senate Interim Committee on Education must file a report of findings and recommendations no later than November 1 of each year before the convening of a regular session. She said this section details what must be included in that final report, and is used as a framework to develop the reports currently being presented. She referred to the document, *Adequacy Study 2012*, in the members' packets and discussed its format. In conclusion, Ms. Derlikowski stated it is important that any recommendations be supported by evidence and be made before schools prepare budgets. She also discussed the need for some changes related to the coding of data input by school districts into the Arkansas Public School Computer Network (APSCN).

Senator Jeffress commented that should any adjunct group, including the Governor's Office and the Office of the Attorney General, have any disagreement with respect to findings or recommendations of the House and Senate Interim Committees on Education during these interim meetings, the group should speak up and advise the Committees.

During Ms. Derlikowski's presentation, Senator Jeffress requested and received a clarification of what is covered by "spectrum of public education" in Section 10-3-2102 (a)(1) of the Arkansas Code Annotated (A.C.A.).

Senator Jeffress thanked Ms. Derlikowski for her remarks.

**Mr. Richard Wilson**, Assistant Director for Research Services, Bureau of Legislative Research, was recognized. Mr. Wilson commented that the draft schedule, *Adequacy Study 2012*, shows some critical reports being presented in April and May, and others being presented in September and October. He noted the Funding Matrix (Matrix) in the members' packets reflects FY08-FY12. He reviewed the current structure of the Matrix and said in FY12 there is \$6,144 of foundation funding for each K-12 child in the state, up 2% from FY11. He said deliberations in the fall will determine what the Matrix will look like when it includes FY14 and FY15. Mr. Wilson called the members' attention to another document, *FY11 School Funding*, which reflects total school funding that is sometimes confused with foundation funding, and explained its composition. He concluded by providing an update on the status of the district and site surveys and on the compilation of data for the final report.

Following the presentation, a discussion of various issues related to the Matrix ensued. It included the following topics:

- o Actual teacher salaries vs. those reflected in the Matrix,
- o Composition and location in the Matrix of administrative salaries,
- o Comparison of Arkansas's costs with that of surrounding states,
- o Breakdown in locations of athletic salaries in the Matrix,
- o Need for a tutorial about the Matrix for Committee members,
- o Mechanism for revisions to the formula in the Matrix, and
- o Providing a list of things superintendents have said would be helpful for them.

Senator Jeffress thanked Mr. Wilson for his presentation.

Senator Jeffress requested a brief update be given on the *McCleskey vs. Kimbrell* case, having to do with

excess Uniform Rate of Tax (URT) collections in a few school districts, and queried when a resolution to the lawsuit may be expected.

**Mr. Scott Richardson**, Assistant Attorney General, Office of the Attorney General, was recognized. Mr. Richardson stated that the case is on appeal to the Arkansas Supreme Court and went on to discuss the briefing schedule. After noting that there is no time limit for the Arkansas Supreme Court to decide an issue, Mr. Richardson stated that the Court generally tries to resolve cases in a timely manner. Mr. Richardson ventured to say that the lawsuit may be resolved before the Adequacy Study is finished.

At the request of Senator Jeffress, Mr. Richardson discussed the background of the lawsuit. He said it is mainly about the URT and how that money gets used in relationship to foundation funding. The vast majority of school districts require state foundation funding aid as a supplement to URT revenue, to ensure that they have the full foundation funding amount available to spend on students. For a few school districts, the URT revenue is such that they actually collect more URT revenue than they would be entitled to under the foundation funding formula. There were two reasons the foundation funding formula was adopted. One was to provide equitable educational opportunities to all students across the state so that every student received the same amount of funding statewide. The other reason was to provide adequacy to increase the amount of funding to all those students and make sure that, based on the evidence, and that is what this Matrix is about, all students had sufficient resources available to them. For those districts that received more URT revenue than what the General Assembly has determined the foundation funding should be, they essentially get a bump in their base revenue, that is state revenue, that is not based on the General Assembly's determination of educational need. The Supreme Court has said that's an unconstitutional situation. If the state provides revenue to districts based on local property wealth, which is what URT is based on, and not based on educational need, then that's an unconstitutional situation. So, the state acted to try and correct that and recoup that excess funding so that the constitutional system in place can be maintained. The Eureka Springs and Fountain Lake School Districts, two of the school districts that get that money, disagreed with that action and sued to prevent it. Judge Tim Fox issued an injunction telling the state that it could not recoup that funding and an appeal to the Arkansas Supreme Court was filed to get a ruling on how that situation should be handled. The parties are now waiting for the decision.

Senator Jeffress thanked Mr. Richardson for the overview.

**The Honorable Johnnie Roebuck**, State Representative, District 20, was recognized to make a motion, a copy of which was handed out to members:

*I move that the Senate Education Committee and the House Education Committee request the Arkansas Department of Education to implement APSCN coding changes necessary to facilitate the collection of data for the following purposes. These changes should not be optional.*

*School improvement provider accounting records:*

*The funding paid to external providers should be recorded at the school level. Coding is needed for vendors used in response to school improvement status requirements. This should be maintained for the expenditure of SIG grant funding as well as other revenue sources used for school improvement providers.*

*Parental involvement efforts:*

*A coding method of tracking federal funds being used for parental involvement efforts is currently being developed. That coding methodology should be used for state funds as well.*

*Teacher absentee reporting:*

*The information is currently being reported as Teacher Leave Total (Days). According to ADE this measure is an **optional** field for districts to enter, and they use the same database field differently, depending upon whether the employee is salaried or hourly. Recording of this data should not be optional and should be recorded uniformly by the districts. These changes should be implemented to be effective for the 2012-2013 school year. Approximately 205 of the 239 school districts are already entering this information.*

The Honorable Mary Anne Salmon, State Senator, District 31, was recognized, and seconded the motion.

After a brief discussion, *the motion was adopted.*

#### Discussion of Issues Related to Special Education

Senator Jeffress announced that **Dr. Laura Bednar**, Assistant Commissioner, Division of Learning Services, Arkansas Department of Education, would not be present for today's discussion.

**Ms. Martha Kay Asti**, Interim Associate Director, Special Education, Division of Learning Services, Arkansas Department of Education, was recognized. Ms. Asti's presentation was based on a list of items, *Special Ed and Related Issues/Topics for Discussion*, which had been submitted to the Arkansas Department of Education (ADE). Ms. Asti addressed:

- ✓ schools' capabilities in the use of Response to Intervention (RTI) and how effective those schools that have used RTI have been in referrals to Special Education.
- ✓ differences in the federal guidelines for Section 504 and the Individualized Education Plan (IEP) required under the Individuals with Disabilities Act (IDEA).
- ✓ paperwork requirements, paperwork reduction without sacrificing documentation, completing forms electronically, comparing Arkansas's documentation requirements with those of Missouri.
- ✓ testing and alternate assessment requirements and related concerns.
- ✓ Special Education funding and expenditures from all sources of state (other than foundation) and federal funds. In a handout that was distributed to Committee members, Ms. Asti reviewed *State Funds*, containing average expenditures for programs, and *Funding for Students with Disabilities*, a summary of federal funding received.
- ✓ higher concentrations of Special Education students in certain districts.
- ✓ number and tracking of students with specific disabilities such as autism, cerebral palsy, etc.
- ✓ staffing levels required for mainstreamed students and for self-contained classrooms.
- ✓ Medicaid billing and district direct billing.
- ✓ large increase in provider-based mental health services at schools and related concerns.
- ✓ trends in increased medication of students with behavioral issues.

- ✓ increased need for schools to provide a growing variety of medical and therapeutic services on a daily basis for high-need students and emotionally disturbed students.

Topics raised for discussion following the presentation included:

- = Total amount of the five-year grant awarded to the Special Education Section,
- = Areas for which assistance from grant monies would be helpful,
- = Accommodating a student, who is performing below grade level, to demonstrate knowledge,
- = Availability of oral assessments,
- = Exclusion of students in the Division of Youth Services (DYS) from the accountability system,
- = Discerning between federal and state requirements,
- = Clarification if Conway is the only Human Development Center (HDC) serving juveniles,
- = Basis for reimbursement to Juvenile Detention Centers (JDC),
- = Funding available for Northwest Arkansas Children's Shelter,
- = Mainstreaming students with catastrophic disabilities in certain schools,
- = Number of students in out-of-state therapeutic treatment programs,
- = Handling of reimbursement for out-of-state therapeutic treatment programs,
- = Cost of out-of-state vs. in-state therapeutic treatment programs,
- = Number and percentage of the school-age child count average of 54,780 in Part B, 611 funds for 2010-11 who are emotionally disturbed or severely emotionally disturbed (SED),
- = Comparison of special subpopulation to that of surrounding states,
- = Clarification about the number of disabilities classifications,
- = Trigger that indicates the need for extra monitoring or visits,
- = Guidelines available to school districts for outside providers, and
- = Differences in classifications for students receiving mental health services.

Representative Cheatham assumed the Chair.

Representative Cheatham thanked Ms. Asti for the presentation.

Discussion of Written Testimony Submitted by Various Education Associations Regarding their Concerns about the State's Current System of Funding for Public Education

**Dr. Richard Abernathy**, Executive Director, Arkansas Association of Educational Administrators, was recognized. He spoke from a PowerPoint presentation and discussed items in a report, *A Review of Adequacy in Financing Public Education in Arkansas*. Dr. Abernathy said he appreciated the opportunity to address the Committees on a variety of important educational issues, including reviews of adequacy and funding, and changing the educational delivery system to meet the future needs of children. He said Arkansas is doing a very good job and has made tremendous progress since the *Lake View* case: schools are better funded, and there has been improvement in the performance of schools and students. *Education Week's* "Quality Counts" Report 2012 on six areas of educational policy and performance has ranked Arkansas fifth in the nation.

Following a detailed exposition of recommendations on adequate funding along with findings and research to support proposed changes, Dr. Abernathy summarized key points of concern:

- ◆ Adding a Cost of Living Adjustment (COLA) mechanism to the Matrix,
- ◆ Addressing the need for adequate bandwidth,
- ◆ Eliminating the requirements of the Educational Excellence Trust Fund,
- ◆ Fund balances and coding issues,
- ◆ High-cost transportation and fairness,
- ◆ Teacher and administrator evaluations, and
- ◆ Revisiting standards for accreditation, length of the instructional year, and professional development requirements.

A discussion followed the presentation. Topics discussed included:

- ≈ Maximum amount or percentage for fund balances,
- ≈ Act 1209 of the 2011 Regular Session, AN ACT TO RESTRUCTURE THE CURRENT METHOD OF EVALUATING ARKANSAS PUBLIC SCHOOL TEACHERS; TO ESTABLISH THE TEACHER EXCELLENCE AND SUPPORT SYSTEM; TO ALIGN PROVISIONS OF THE ARKANSAS CODE CONCERNING PROFESSIONAL DEVELOPMENT AND TEACHER FAIR DISMISSAL WITH THE TEACHER EXCELLENCE AND SUPPORT SYSTEM; TO INCREASE PUBLIC AWARENESS OF EFFECTIVE TEACHERS; AND FOR OTHER PURPOSES.,
- ≈ Correlating subjects in the curriculum,
- ≈ Common Core State Standards and the Broadband issue,
- ≈ Number of days spent in school affecting proficiency in test scores,
- ≈ Quality and individual needs-based, professional development, and
- ≈ Setting guidelines for transportation.

Representative Cheatham thanked Dr. Abernathy for his presentation.

Representative Cheatham announced that, because of time constrictions, there would be a change in the agenda, and presentations by **Mr. Rich Nagel**, Executive Director, Arkansas Education Association, **Mr. Bill Abernathy**, Executive Director, Arkansas Rural Education Association, and **Mr. Dan Farley**, Executive Director, Arkansas School Boards Association, would be taken up at the next scheduled meeting on Monday, April 9.

Representative Cheatham announced that the next joint meetings of the Senate Interim Committee on Education and the House Interim Committee on Education would be at 1:30 p.m. on Monday, April 9, 2012 in Room 171 of the State Capitol in Little Rock, and at 9:00 a.m. on Tuesday, April 10, 2012, in Room 171 of the State Capitol in Little Rock. The meeting on Tuesday will be limited to discussion on issues related to adequacy.

There being no further business, the meeting adjourned at 11:28 a.m.

*Approved: 04/09/12*