

**OFFICIAL MINUTES**  
**MEETING OF THE STATE BOARD OF EDUCATION**  
**BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO**  
**TRUSTEES OF IDAHO STATE UNIVERSITY**  
**TRUSTEES OF LEWIS-CLARK STATE COLLEGE**  
**TRUSTEES OF BOISE STATE UNIVERSITY**  
**STATE BOARD FOR VOCATIONAL EDUCATION**

**February 11, 1999**  
**Teleconference Call**  
**Boise, Idaho**

Call To Order

With a quorum present, the meeting was convened with Dr. Thomas E. Dillon, President of the State Board of Education and Board of Regents of the University of Idaho, presiding.

Members Present

Thomas E. Dillon, President  
Harold W. Davis, Vice President  
Jerry Hess, Secretary  
Tom Boyd  
Curtis H. Eaton  
Marilyn Howard, State Superintendent of Public Instruction  
Carole McWilliam (left at 8:55 a.m.)  
Judith C. Meyer (left at 9:10 a.m.)

Members Absent

All exhibits, appendices and items referenced in these minutes are on file as permanent exhibits with the Office of the State Board of Education.

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Compensated days spent on Board business by members of the State Board of Education/Board of Regents of the University of Idaho for the month of February 1999.

<b>Thomas Dillon</b> 02/11,15,22	<b>Days</b> 1.5	<b>Curtis H. Eaton</b> 02/17	<b>Days</b> 1.0
<b>Jerry Hess</b> 02/09,11,17	<b>Days</b> 1.5	<b>Judith C. Meyer</b> 02/11,17-20	<b>Days</b> 4.5
<b>Tom Boyd</b> 02/11,17-22,23	<b>Days</b> 2.5	<b>Harold W. Davis</b> 02/11	<b>Days</b> .5

Non-compensated days spent on Board business by members of the State Board of Education/Board of Regents of the University of Idaho for the month of February 1999.

<b>Curtis H. Eaton</b> 02/11	<b>Days</b> .5	<b>Marilyn Howard</b> 02/11,17	<b>Days</b> 1.5
<b>Carole McWilliam</b> <b>(compensation paid</b> <b>to Pocatello SD)</b> 02/11,17	<b>Days</b> 1.5	<b>Harold W. Davis</b>	<b>Days</b>

**LEGISLATIVE AFFAIRS COMMITTEE**

1. Amendment to 33-4302A - Dependent Scholarships

The Amendment to 33-4302A will increase the benefit amounts available to eligible children of peace officers and firefighters.

Several Board members expressed concerns that other public employees were not included in the statute. There was also discussion regarding the existing statute and its interpretation.

Mr. Eaton said the intent of Motion #1 was to support the language of existing statute, including the provision for disability. He said the deletion of the disability provision in the amendment was the result of a misunderstanding by the Board, which was under the assumption that the disability provision was an addition to statute.

**It was moved by Mr. Eaton and seconded by Mr. Boyd to support the bill. The motion was amended to support existing statute and leave in the provision for the disabled. The amended motion carried.** (Motion #1)

2. HB 139 - Student Fees

The bill amends and adds to existing law to prohibit any person, governmental entity or state university or state college that assesses mandatory student fees from expending public funds to influence the general public on a matter appearing on the election ballot; and to provide legislative intent.

Mr. Eaton was concerned the bill could set a precedent regarding the authority of the State Board of Education to set fees. Mr. Kevin Satterlee was concerned that the legislature has never regulated student fees at the institutions; that it has always been a State Board of Education prerogative, and he felt it is a constitutional prerogative. He also felt the bill could lead to legislative regulation of institution fees and their expenditures.

Mr. Davis asked for clarification from the Attorney General. Mr. Boyd agreed and felt he needed to find out what the motivation was behind the bill, i.e. is there a problem that someone is trying to fix.

Mr. Hess felt that if the student fees were going for political purposes the Board could rectify it by policy. Dr. Dillon agreed and felt the bill should not be endorsed.

Mr. Curt Wozniak, University of Idaho (UI) Student Body Lobbyist, addressed the Board. He said they are opposing the bill as they do not feel there is a problem at the UI. He felt their constitution, rules and regulations and bylaws already prohibit what the bill attempts to do.

Additionally, he felt the State Board of Education via the UI administration does an adequate job of ensuring that student fees cover political issues in a fair and evenhanded way.

Mr. Eaton said there is concern with how broad the bill is written. He felt one of the responsibilities of the institutions is to bring opposing views to campus and it is possible under the legislation that doing so might constitute a violation.

Dr. Fitch felt the Board needed to address the bill today as the process is going forth and if Board input is to be felt, it needed to be conveyed without delay. He was concerned that waiting for an AG opinion would erode the Board's position, and that the bill would go forward based, in part, on Board silence being interpreted as acceptance.

Dr. Fitch felt it was very important that the Board send a statement regarding the issue of constitutional control, i.e. in the best interest of students, it will not relinquish its authority as the State Board of Education.

**It was moved by Mr. Eaton, seconded by Mr. Hess and carried** that it is the authority and responsibility of the State Board of Education to set the amount and use of student fees, and that it opposes legislation that infringes upon that authority; and that the State Board of Education and the Board of Regents has governance authority over all of postsecondary education and it opposes infringement or modification of that governance authority. (Motion #5) (Dr. McWilliam and Ms. Meyer were not in attendance.)

Mr. Hess suggested the Board ask the Legislative Affairs Committee to communicate the Board's concerns in a more personal way to the legislators. Mr. Eaton agreed.

3. 33-1613 and 33-808 - School Facilities Safety

The bill is intended to give school districts a method of financing abatement of unsafe conditions that will satisfy the requirements of the decision of the Supreme Court of Idaho in *Idaho Schools for Equal Educational Opportunity v. State*, 1998 Opinion No. 131, issued December 30, 1998.

Mr. Eaton asked the Board to look at it in concept as a realistic solution rather than the detail of it. He said he has related his concerns regarding clarifications and some of the details to Mr. Satterlee who has, in turn, relayed them to legislative counsel.

Dr. Howard said she has sat in at meetings where the bill has been discussed and the intent addresses the Board's desire to have safe schools, and also felt the bill carries the elements which need to be in place for that to be realized.

Mr. Boyd said he thought Senator Twiggs was contemplating some problems when the

bill goes forth, particularly in the area of allowing the districts to pass health and safety levees. He asked the Board to get behind and support the legislation.

Mr. Eaton reminded the Board that when it passed the regulations for public schools, it passed one relating to school facilities which said “the health and safety of all persons is essential.”

Dr. McWilliam said she supported the bill, but had concerns regarding local control and the definition of unsafe. A situation can be deemed safe or unsafe depending on which fire marshal does the inspecting. She said the local school board has responsibility, liability, etc., but in reading through the bill, her thought was there is support for local control, but if they don’t do something, the state will do it for them.

Mr. Eaton said his interpretation of the bill was that it would give the local districts the authority to secure funding and implement procedures they do not have at the present time, and that the measures in the bill will be initiated by the local districts.

**It was moved by Mr. Davis, seconded by Mr. Eaton and carried** to support the concept of the legislation. (Motion #2)

4. Title 33 - Charter School Amendments

Dr. Howard said the amendments to 33-5203, 33-5205, 33-5206, 33-5202(1b) and 33-5211(1) were requested in order to address unforeseen problems which have come up since the statute was written. Mr. Eaton reviewed the amendments.

Dr. Dillon asked for clarification regarding charter schools’ accreditation. Dr. Robert West said the accreditation process is to allow charter schools to operate as fully functioning public schools. However, if a secondary level charter school is not accredited, the credits earned would not be accepted in other public schools including postsecondary schools. He said the amendment is not intended to deal with curriculum and instruction, but is intended to look at the organization of a school to make sure it is fully functioning as a public school.

**It was moved by Mr. Eaton, seconded by Dr. Howard and carried** to approve the amendments to 33-5203, 33-5205, 33-5206, 33-5202(1b) and 33-5211(1). (Motion #3)

5. 33-308 - School District Boundaries

Mr. Eaton said the Board supported the draft legislation presented in January and at that time had asked Mr. Satterlee to work with the Idaho State School Administrators who were supporting a similar bill. The bill presented today has been modified from the one presented in January in that it addresses to how an election will take place based on the relative size of the parcel under consideration and it changes who may petition the Board.

Mr. Eaton said currently taking the issue to the State Board of Education is the responsibility of the petitioner; the proposed change would give that responsibility to the districts. He suggested the Board consider recommending the bill with a provision allowing both the petitioners and the districts to bring it to the Board. The reason is that if petitioners are precluded from taking it forward, there is no motivation on the part of the districts to do so. Board members were in agreement that they could support the changes if they allowed the petitioners also to bring issues to the Board.

**It was moved by Mr. Davis, seconded by Ms. Meyer and carried** to support the Amendments to 33-308 with the addition that it could be brought forward either by the district or by the petitioners. (Motion #4)

6. Vocational Education Advisory Committees

Mr. Eaton said Representative Doug Jones has a proposal that is now in RS form relating to advisory committees at the postsecondary technical colleges. In January the Board asked Dr. Fitch to make contact with Rep. Jones.

Dr. Fitch said he wrote to Rep. Jones stating “part of that bill says that these advisory committees will be responsible to confer with administrators on the general management and governance of the vocational education program.” He felt that the SBOE as the State Board of Education for Vocational Education has that constitutional authority, and that this bill would be relinquishing that authority to advisory committees. He felt the Board should look carefully at it and not remain silent.

7. Scholarship Proposal by Senator Robert Lee

Mr. Eaton said Senator Robert Lee wants to create a scholarship for Idaho high school students. Senator Lee’s proposes:

1. Using some of the tobacco settlement funds as a source of funding. It has been indicated to Senator Lee by the primary deputy attorney general that there is no prohibition in the agreement for using the funds in this manner.
2. If tobacco settlement funds are used, the students may be required, at the discretion of the State Board of Education, to demonstrate that they are alcohol, tobacco and drug free.

Dr. Dillon was concerned about how the State Board of Education could develop rules and police students’ activities.

Mr. Hess suggested students sign an affidavit of their intent to refrain; which,

while not enforceable, would send a positive message.

Mr. Killworth said it would be at the State Board of Education's discretion and that it might choose not to require anything and ignore the issue. If the Board decided to go with the alcohol, tobacco and drug free approach, it could determine how to try to do so, i.e. an affidavit.

3. Creating a second tier, i.e. B students, who will be allowed to attend either Idaho public or private institutions as A students are currently allowed to do.
4. Calling the scholarship the "Pat Bieter Scholarship Fund."

Dr. Dillon asked Mr. Eaton to contact Senator Lee and let him know that the Board supported 95 percent of his recommendations and if he wanted to discuss the remainder, another meeting could be called.

Mr. Eaton said they would continue having conversations with Senator Lee and advise him that there is concern about two of the changes, and that Board members would like additional information before making a decision.

Mr. Hess said he did not want conveyed to Senator Lee a message that the Board is against wanting students to be alcohol, tobacco and drug free. Mr. Eaton said he would make sure conversations with Senator Lee would be neutral on that point.

8. Responding to Legislators

Dr. Dillon felt the Board needed to review its procedures regarding responding in a timely manner to legislative proposals, i.e. giving authorization to staff/Legislative Affairs Committee to represent the Board when these issues arise. The topic will be placed on the March agenda.

Mr. Boyd felt the Board should be watching for whichever committee a bill comes out of and how the vote went. Then if the Board has concerns with a piece of legislation, the Legislative Affairs Committee should address it quickly. He asked that staff determine how the student fee and advisory committee bills were responded to by other legislators.

Mr. Hess suggested that staff relate the flavor and tone of Board discussions to the legislators so they understand why Board members feel as they do about a topic. He felt that would help clarify issues.

9. Adjournment

**It was moved by Mr. Davis, seconded and carried to adjourn. (Motion #6)**

Meeting materials on file with the Office of the State Board of Education.

**ADJOURNMENT:** 9:30 a.m.

**CERTIFICATION:**

To the best of my knowledge, the minutes contained herein constitute a complete and accurate record of the proceedings of the meeting. The minutes are not verbatim; tapes are available from the Office of the State Board of Education.

Recording Secretary: Vicki E. Barker