



**Idaho State
Board of Education**
**STATE BOARD OF EDUCATION
SPECIAL BOARD MEETING
March 3, 2022
Idaho State Board of Education
OSBE Conference Room
650 West State Street, Suite 307
Boise, ID 83720**

A special meeting of the Idaho State Board of Education was held via Zoom teleconference March 3, 2022, with the call originating from the Office of the State Board of Education in Boise. Board President Kurt Liebich called the meeting to order at 11:00 a.m. (MT).

Present

Kurt Liebich, President
Dr. David Hill, Vice-President
Dr. Linda Clark, Secretary
William G. Gilbert, Jr.

Cally J. Roach
Cindy Siddoway
Sherri Ybarra, State Superintendent

Absent

Shawn Keough

Thursday, March 3, 2022, 11:00 a.m. (Mountain Time)

PLANNING, POLICY AND GOVERNMENTAL AFFAIRS

1. Legislative Update – Action Item

Board President Liebich opened by saying that this meeting was called to discuss issues that will be coming before the Legislature.

HB 684

Jenifer Marcus, Deputy Attorney General, Idaho State Board of Education, spoke on HB 684. HB 684 adds to existing law to provide for the protection of free speech in higher education. She said this bill codifies some Supreme Court decisions involving the First Amendment and Freedom of Speech. The two new significant pieces in this legislation will require institutions to report annually to the Legislature and the Governor their policies on this topic and any complaints received. They will also be required to have

training materials in place during orientation concerning the institution's policies around the First Amendment.

Board President Liebich asked if any of the institutions had any concerns regarding HB 684. Richard Stover, Boise State University General Council said review of this legislation raised concerns regarding the provisions critical to protecting institutions - namely designation of outdoor hearing spaces for public forums, and waiver of immunity from lawsuits.

Board President Liebich asked Mr. Stover what the language staying in the legislation means to the institutions. Mr. Stover said the institutions may have to put the rights of non-students on par with or above enrolled students. It will also limit institutions from managing their open areas of campus, designating the entire outdoor area as open to Freedom of Speech demonstrations. The waiver of the 11th amendment immunity could lead to lawsuits in federal as well as state court.

Cally Roach asked if there were any concerns relating to the reporting requirement. Rich Stover said there was no constitutional prohibition to making schools submit reports to the Legislature.

Cindy Siddoway asked for clarification on the statement made that this legislation is currently running through other states. Rich Stover said legislation of this type is running in 20 other states, but all in various forms.

Board President Liebich asked if there was any conflict between current legislation and this new bill. Ms. Marcus said she wasn't aware of any conflicts.

HB 716 and HCR 039

Tracie Bent, Chief Planning and Policy Officer, Idaho State Board of Education, explained that HB 716 adds to existing law to provide for the adoption of initial certification and content standards prepared by 2020-2021 work groups. The area of concern is this bill would codify the content standards for English Language Arts, Mathematics and Science and codify the Initial Standards for Professional School Personnel (Educator Certification Standards). While it is the Legislature's prerogative to move forward with this legislation, the unknown impact to properly getting assessment data, staying in compliance with federal requirements, and what those costs would be to do so are unknown. The impact to the school districts has not been assessed nor has the cost of having to change curriculum at the local level to align with this new requirement. Tracking student learning loss may also be hampered if the standards are no longer aligned to the current Idaho Standards Achievement Test (ISAT). If the content standards are no longer aligned to the ISAT, Idaho would have to move to a new assessment that was aligned to the new standards. The cost of movement is unknown at this time. The content standards did not move forward during this year's rulemaking cycle due to a lack of fiscal impact. Idaho law requires all proposed and pending rules to include a true and accurate fiscal impact. This bill also adds an

unknown version of the certification standards to Idaho code. These standards were returned by the Board at the August Board meeting for additional work prior to updating the incorporated by reference version of the standards in the proposed and pending rule. The requested amendments were not brought back in time to include in the proposed rule. The original version provided to the Board would have negative impacts on the Board's ability to evaluate non-public programs for continued approval as an approved educator preparation program.

BOARD ACTION

M/S (Clark / Gilbert) I move to oppose HCR 039 and HB 716 because it is uncertain the extent to which the new standards align with existing assessments and if they do not align the cost to develop new aligned assessments in related professional development is unknown. No vote was taken. Dr. Clark used parliamentary procedures to remove the motion with the approval of the second.

Substitute Motion 1

M/S (Ybarra /) I move the State Board of Education endorse the bills leading to the elimination of the common core standards in Idaho.
No second was recorded. Motion failed.

Substitute Motion 2

M/S (Liebich /) I move to support HB716 and HCR039 provided that the Legislature appropriate funding for a new assessment aligned to the new standards with the recognition that the new assessment could cost up to \$44 million per the initial estimates of the State Department of Education. No second was recorded. Motion failed.

Substitute Motion 3

M/S (Ybarra / Siddoway) I move that the State Board of Education endorse these two bills which eliminate the common core standards in Idaho subject to the Legislature's commitment for adequate funding for a new test, committee work, and professional development to the districts. A roll call vote was taken. Superintendent Ybarra and Cindy Siddoway voted aye. Board President Liebich, Dr. David Hill, Dr. Linda Clark, William G. Gilbert, Jr., and Cally Roach abstained from voting. Shawn Keough was absent from voting. The motion failed.

Board President Liebich said the current standards have been in place since 2014 for English, Math and Science. Superintendent Ybarra said she believed that these standards have been in place since 2011. Ms. Bent said the original standards did go into effect in 2011 and were called the common core standards, but had been updated during the 2014-2015 rulemaking timeframe and were reviewed and went out for public comment again in 2020. Board President Liebich wondered what will happen if the Board adopts these changes, what impact will that have on the assessment data.

Superintendent Ybarra said the current standards have been in place for many years and parents are not happy with the current curriculum and they are the ones driving these changes. The end to common core is high on the list of parental demands. Superintendent Ybarra also offered to send to the other Board members the slide show she presented to the Legislature showing the potential fiscal impact which could be as high as \$44 million dollars over a three-year period to work on this legislation, and the legislators' comment was they did not care about the costs.

Dr. Clark said she endorses the new standards and the process by which they were developed. The concerns she has surround the potential changes to the assessment data. The last time the assessment data was tweaked, growth data was never able to be assessed. There is also no precedent for the Board to move forward without knowing the fiscal impact associated with making these changes. Superintendent Ybarra said a fiscal impact was provided in the legislation as written and not moving this bill forward goes against what the people of Idaho want. Dr. Clark said it's not the price of the test but the process. And the fiscal impact piece was not part of the legislation when it was first introduced which is not the Board's process. Board President Liebich confirmed that no fiscal impact statement was ever received by the Board office when the legislation was introduced. The fiscal impact statement of the bill only includes the fiscal impact of a review of the proposed standards and does not include the fiscal impact a changing to a new assessment.

Board President Liebich further stated that Idaho cannot end up as a state adopting new standards without commitment by the Legislature to support us in aligning assessments with our standards which could put at jeopardy of meeting the federal requirements.

Mrs. Roach asked for clarification; has the Legislature appropriated any funds for this work? Superintendent Ybarra said the Legislature did not care about the costs, and no appropriation was earmarked for making these changes. The current test being used will not be thrown out until another test is in place, or the current test tweaked to make it work.

Dr. Clark asked for clarification; is the upwards of \$44 million price tag mentioned only for changing the test and does not include costs to school districts and charter schools for their curriculum committees and the professional development that will be required? Rick Kennedy, Chief Procurement Office, Idaho State Department of Education, said that was correct with another \$10 million being needed for teachers to work on the curriculum changes and for professional development.

Mrs. Roach asked for Matt Freeman's perspective. Mr. Freeman, Executive Director, Idaho State Board of Education, said adopting this legislation now means the new standards will be effective immediately and that will mean working with the US Department of Education to get a waiver for the new assessments. Superintendent Ybarra said no waiver would be needed based on talks with the U.S. Department of Education and superintendents in other states.

Dr. David Hill asked why was the Board voting on anything today, and what was the point? Mr. Gilbert echoed the sentiment and wondered what the point would be in voting on anything. For clarification, Dr. Hill said the objection is not to the work behind the new standards, which is exemplary, but to the process and mostly to an ill-defined price tag. Where the Board finds itself is that we support the content of the standards but would like clarity on the costs and would like a commitment on the funding of it. Board President Liebich agreed that was his view on this legislation as well. Dr. Hill said then how does the Board get there?

Superintendent Ybarra said the alignment study the State Department of Education is prepared to do will give that answer but that would happen after the Board votes to support this legislation and it goes to the Senate. Clear answers to Dr. Hill's questions would not happen until the alignment study is completed.

Board President Liebich asked if intent language could be added to the legislation to mention the Legislature's intent to fund these changes. Mr. Freeman said if both pieces of legislation pass, the Legislature is committing to provide funding for reviewing the alignment. Those costs are \$125,000-\$375,000, which is the cost of the review.

Dr. Hill said the word 'eliminate' in the substitute motion does not endorse the new standards but removes the old. Superintendent Ybarra said the standards in place are the common core standards and the public is not happy with those.

Dr. Clark expressed her concerns that acting on these legislative bills, which did not follow the Board's regular process, such as detailing the fiscal impact and the source of that funding, was problematic. She is also concerned that changing the process, and not having clear commitment for funding from the Legislature to make these changes, all while dealing with unfinished learning is not ideal. Mrs. Siddoway said she agreed with that sentiment which is why she seconded the motion to begin this discussion. She was also wondering if additional language could be added to the substitute motion to address the Board's process.

Dr. Clark again stated that at no time when the legislation was brought forward was there a fiscal impact statement attached. It is also why the Division of Financial Management did not take any action to approve the standards moving forward as a proposed rule last fall because there was no fiscal impact statement. Superintendent Ybarra insisted that was an untrue statement and that the fiscal impact statement was there. Board President Liebich said the first time the number of \$44 million was presented was at today's meeting. There was no fiscal impact statement presented when the bill was first introduced.

Matthew Reiber, Policy Advisor, Intergovernmental Affairs, Office of the Governor, said when the rule request was submitted, the Governor's office decided not to move forward with the content standard changes. He said that was attributed to the fact that no fiscal impact statement was part of the legislation. Idaho law requires all proposed and

pending rules include a fiscal impact, without the fiscal impact there was no choice but to reject the rule moving forward.

Board President Liebich said based on no motion being approved, the Board will take no action on HB716 and HCR039.

There being no further business a motion to adjourn was entertained.

M/S (Roach / Hill) I move to adjourn the meeting at 12:06 p.m. (MT). A roll call vote was taken, and the motion carried 7-0. Shawn Keough was absent from voting.