

Minutes
State Board of Education
Monday, June 14, 2004

The State Board of Education met on Monday, June 14, 2004, in the Auditorium of the State Education Building. JoNell Caldwell, Chairman, called the meeting to order at 9:00 a.m.

The following Board members were present: JoNell Caldwell, Chairman; Shelby Hillman, Vice-Chairman; Sherry Burrow; Luke Gordy; Dr. Calvin King; Randy Lawson; Diane Tatum; MaryJane Rebick; and Dr. Jeanna Westmoreland.

No members were absent.

Special Order of Business

Ms. Caldwell noted that this meeting was the last regularly scheduled meeting for Luke Gordy in that his term of office expires on June 30, 2004. She stated that Mr. Gordy has made great contributions to the Board and to the state through his service, which spans two terms. She recognized his leadership as a Board member, chair of special committees – especially legislative work, as vice-chairman, and finally as chairman for two years. During that time, she continued, “Luke” mentored every new Board member by sharing his insight and support. Ms. Caldwell presented a plaque recognizing his years of service and as a commendation for a job well done. She noted that teacher licensure, national Board certification, and effective communication among the Board, the Department staff, the Governor’s Office and the General Assembly as areas of deep interest during Mr. Gordy’s tenure.

Ms. Hillman offered a resolution signed by all current Board members and Dr. Ken James, Director, which officially proclaimed Luke Gordy’s contribution to the state, the Board and the children of Arkansas.

Mr. James recognized Luke Gordy for his intense interest in programs and initiatives that focused on improving the quality of learning for kids in Arkansas, and that his leadership on the Board will be deeply missed.

Mr. Gordy responded by stating service on the Board has been frustrating and often difficult; however, one of the most rewarding things he has done professionally. He thanked the Agency staff for its work on behalf of education in Arkansas and its focus on improving opportunities for kids. He challenged the Board to continue its emphasis of having the best interest of kids at the forefront of all decisions that are made.

Consent Agenda

Ms. Hillman moved approval of all items on the Consent Agenda. Mr. Lawson seconded the motion. The motion was adopted unanimously.

- Approval of Minutes

- April 19, 2004
- April 26, 2004
- May 10, 2004
- May 17, 2004
- May 18, 2004
- May 24, 2004
- Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan
- Newly Employed, Promotions and Separations
- Declaration of Critical Academic Areas as Required by Act 1146 of 2001, Section 2(3)(A)
- Final Approval of Repeal of Arkansas Department of Education Rules and Regulations Governing the Distribution of Poverty Index Funds (Act 1549 of 1999)
- Final Approval of Repeal of Arkansas Department of Education rules and Regulations Governing Funding of Alternative Learning Environments (A.C.A. §6-20-323 and §6-11-105)
- Final Approval of Repeal of Arkansas Department of Education Rules and Regulations Governing Debt Service Funding Supplements (§6-20-202 and §6-20-303(b))
- Final Approval of Repeal of Rules and Regulations Governing School District Facilities Needs Assessment (Act 917 of 1995)
- Final Approval of Repeal of Rules and Regulations Governing the Distribution of General Facilities Funding (A.C.A. §6-20-301 et seq. (1995))
- Final Approval of Repeal of Rules and Regulations Governing the Distribution of Revenue Loss Funding (Act 1549 of 1999)
- Final Approval of Repeal of Rules and Regulations Governing the Distribution of Student Growth Funding (A.C.A. §6-20-305)

Action Agenda

Act 1738 of 2003 Exemptions

Patricia Martin was recognized to present this item. Ms. Martin began by reporting that this would be the last time for action on items such as these because the authorization for action expires at the end of June 2004. She noted that all items presented had been reviewed by the Department committee and found to meet criteria as established in the Rule. Ms. Rebick moved approval. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Report of Waivers to School Districts for Teachers Teaching Out-of-Field for Longer than Thirty (30) Consecutive Days, Act 1623 of 2001

Dr. Charity Smith was recognized to present this item. Dr. Smith noted that this request focuses on 60 teachers from 21 different districts. Ms. Rebick inquired if the actions of consolidation would have any impact on hiring qualified teachers. Dr. Smith responded that one can only hope. She also suggested in some new districts, the opportunity to share teachers may be a greater option than in the past. Mr. Gordy noted that the Plainview-Rover District seemed to request a large number of waivers based on the size of that school. He asked what percent of teachers in that district are currently not fully

licensed. Dr. Smith replied that she would get that information and present it later in the meeting. Dr. Smith stated that it continues to be difficult and in some cases almost impossible to attract fully licensed teachers into some districts in remote areas of the state. Ms. Rebick suggested that for these reports next year that a new column on the reporting form be added to reflect the percent of teachers who are not fully licensed.

(Dr. Smith reported later in the session that the Plainview-Rover District has a total of nine teachers that did not meet standards, which is 28% of the teaching staff. Dr. Smith provided similar information on other districts that requested waivers.)

Ms. Tatum inquired as to why schools were making these waiver requests for the 2003-04 school year – noting that it is June and schools are not in session. Dr. Smith responded that some schools were late in completing the process and that this list reflects some last minute requests from districts.

Ms. Burrow asked how long could a school have a teacher on staff that did not meet licensure. Dr. Smith stated that three years was the max for teachers who are working on a removal plan or for teachers participating in the alternative licensure program. However, she continued, those teachers must be making documented progress toward meeting their deficiency(s).

Ms. Tatum moved approval of the waivers as presented. Ms. Burrow seconded the motion. The motion was adopted unanimously.

Classification of School Districts in Fiscal Distress

Patricia Martin was recognized to present this series of recommendations. She indicated that the Board previously was informed that these districts were identified as meeting the fiscal distress criteria. Ms. Martin reported that the districts had 30 days to provide additional information and only the Earle School District provided additional information. Mr. Gordy asked for clarification of the responsibility of the Board or the Department when districts are classified in fiscal distress. Ms. Martin responded that districts are required to file a plan of action, that plan is reviewed and approved or amended by Department staff, and the Department monitors the district's performance under the plan. Mr. Gordy asked about "phases." Ms. Martin responded that phases are no longer used; the authority for fiscal distress is now under the Omnibus Rules, which does not use a phase system. Ms. Tatum asked how a district is removed from fiscal distress. Ms. Martin stated that the district must demonstrate that the condition that qualified them for designation as fiscal distress has been corrected or removed. Ms. Rebick asked how the situation changes when one of these districts is annexed or consolidated under Act 60. Ms. Martin stated that all fiscal responsibilities of these districts are transferred to the receiving district or the new entity and it becomes the responsibility of that new entity to ensure that all fiscal criteria are met with monitoring and oversight by the Department.

Dr. King asked for clarification of a situation where both entities would be classified in fiscal distress. Ms. Martin responded that under Act 60 the new entity would be classified, but no sanctions would be enacted for three years. Scott Smith offered clarifying statement saying that the receiving district continues with the classification; however, a district being annexed or consolidated is still classified, but no sanctions are applied.

Crossett School District

Mr. Gordy moved that Crossett School District be classified in fiscal distress. Ms. Hillman seconded the motion. The motion was adopted unanimously.

Heber Springs School District

Mr. Lawson moved that the Heber Springs School District be classified in fiscal distress. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Lakeside School District – Garland County

Ms. Rebick moved that Lakeside School District be classified in fiscal distress. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Oark School District

Ms. Tatum moved that Oark School District be classified in fiscal distress. Mr. Gordy seconded the motion. Ms. Rebick noted that this district is being annexed to Jasper, what additional action, if any, is needed? Tripp Walter responded that the annexations are not final until July 1; therefore, this action is necessary in case some event would cause the annexation not to move forward. Dr. Westmoreland clarified that under the annexation, the Oark District cannot be tracked fiscally after July 1. Ms. Martin confirmed. Dr. Westmoreland asked if annexed districts would maintain separate books. Ms. Martin responded that they would not after July 1. The vote on the motion was unanimous.

Jasper School District

Mr. Lawson moved that the Jasper School District be classified in fiscal distress. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Lake View School District

Ms. Burrow stated that she did not understand how a school district's ledgers can be not balanced and the Department of Education not know the condition exists. Ms. Martin noted that Department staff has worked with this district on a continuing basis for several years and it was a continuing challenge. Ms. Hillman questioned the audit process for local districts. Ms. Martin responded that the Division of Legislative Audit is responsible for carrying out that function, it is not a duty of the Department. Ms. Hillman asked what happens when a problem is detected? Ms. Martin responded that the Department is informed and that staff works with the District in identifying and correcting deficiencies that are indicated.

Ms. Rebick moved that Lake View School District be classified in fiscal distress. Mr. Lawson seconded the motion. The motion was adopted unanimously.

St. Joe School District

Dr. Westmoreland moved that the St. Joe School District be classified in fiscal distress. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Greenland School District

Ms. Caldwell asked if one responsibility of the legislative audit process was to bring to public attention any illegal actions of the District. Ms. Martin responded that the audit division has an investigation team that turns any suspected illegal actions over to the local prosecutor for further review and action. Ms. Rebeck asked for clarification on the status of this district since it is a receiving district under Act 60. Ms. Martin responded that they would be classified, but no sanctions would be taken for three years. Ms. Rebeck suggested that the Department should observe the actions of this district closely. Ms. Martin responded that they will go through the full set of actions including goal setting, establishing a plan, and determining actions, but it will not be sanctioned even if they don't meet the plan.

Ms. Tatum moved that the Greenland School District be classified in fiscal distress. Mr. Gordy seconded the motion. The motion was adopted unanimously.

Augusta School District

Ms. Hillman moved that the Augusta School District be classified in fiscal distress. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Earle School District

Ms. Martin stated that following official notice of identification of fiscal distress, her office was initially told by the Earle School District administration that no additional information was available. Then on May 6 the Department was notified that the Earle District would appeal the identification status. The District provided no information until Thursday, June 10. At that time documents were provided supporting the issuance of bids, and procedures used to complete construction of facilities in the District. Ms. Martin stated that based on this new information, the District should not be classified in fiscal distress. Mr. Lawson inquired if action is required by the Board. Tripp Walter responded that since the district received notification and an appeal was filed, then the Board should complete the cycle by taking action on the appeal. Mr. Lawson asked for clarification on the conditions that existed within the Earle District that caused identification as fiscal distress. Ms. Martin noted that the primary condition was declining balances for three consecutive years. She continued that those balances appear to be the result of planned expenditures for construction. Mr. Lawson inquired if the district was finished with the construction projects. Ms. Martin responded affirmatively. Mr. Lawson moved that the Board accept the appeal of the Earle School District and that the District not be classified in fiscal distress. Ms. Hillman seconded the motion. The motion was adopted unanimously.

Update on Compliance with Act 60 of the Second Extraordinary Session 2003

Scott Smith was recognized to present this update. Mr. Smith reported that there are three mergers still pending each awaiting a decision from federal court: those are McNeil/Stephens, which has a hearing scheduled in El Dorado on June 23; Sparkman/Harmony Grove reports preliminary work with attorneys but nothing scheduled at this time; and Crawfordsville/Marion, where three local board members have filed action to remove the existing case and allow the merger to move forward. He also reported that the number of districts has or will be reduced from the current 308 to 256 as of July 1, 2004 with a total of 24 annexations and 21 consolidations.

Ms. Rebick inquired what options are available to the Board if any of the three conditional approvals are not finalized by July 1. Mr. Smith responded that if the State is prohibited to act under federal court order, then a determination of actions will have to be made. He affirmed that the Department was trying to deal with questions and issues as they arise.

Appointment of Local Interim School Board Membership for those Resulting School Districts that Failed to Establish a Local Interim School Board by May 31, 2004

Scott Smith was recognized to address this item. Mr. Smith reported that the only merger that failed to meet this requirement was the Barton/Lexa – Lake View Consolidation. He stated that Barton/Lexa submitted its recommendations, but Lake View failed to meet the requirement. Mr. Smith stated that the procedure to be invoked by the Board in this case is that a seven member interim board is to be established with proportional representation based on the number of students enrolled in the two merging districts. He gave enrollments of 723 at Barton/Lexa and 142 at Lake View, which is 82% as compared to 18% or approximately a 6 to 1 ratio. Mr. Smith stated that the Barton/Lexa Board submitted the following to membership on the interim board: Loyd Oxner, Gloria Estes, Wanda Kirkland, Roxie Wilson, Karen von Kanel, and Dennis Ford. Mr. Smith recommended that the Board appoint Henrietta Wilson as the member from Lake View. He stated that Ms. Wilson is the current president of the Lake View Board and that this recommendation is in keeping with provisions of Act 60.

Ms. Tatum inquired if all seven members could be elected from Barton as a result of the September election. Mr. Smith explained that a zone system would have to be established assuring representation from each of the established zones.

Mr. Gordy moved that the interim board at Barton/Lexa – Lake View consolidated district be appointed as recommended by Mr. Smith. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Approval of a Revised Public School Fund Budget for FY 2004

John Kunkel was recognized to present this item. Mr. Kunkel explained that minor revisions were needed to accommodate new information received late in the fiscal year. Ms. Hillman moved approval of the revised Public School Fund Budget. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Approval of the 2004-2005 Department of Education Operating Budget and Public School Fund Budget

John Kunkel was recognized to present this item. (Operating Budget) Mr. Kunkel summarized the material presented in the Agenda materials and noted that new items were included in the budget this year to accommodate legislative actions of the special session. He also noted that Act 90 requires a special study and realignment of the Department and a contract will be issued to cover the cost of that work. He explained that with few noted exceptions, the Operating Budget is very similar to the current year's budget.

Mr. Gordy asked about the Accountability Office that was created by legislation. Mr. Kunkel stated that the effective date of that legislation is not until October based on the adjournment date of the General Assembly. Ms. Rebick inquired about review of budgets by the Department of Finance and Administration. Mr. Kunkel explained that the state budgeting process requires preliminary submission by all agencies in May and that generally those budgets are prepared based on existing budgets and State revenue forecast. He also referred to a letter from the chief fiscal officer indicating that no new money was to be included in state budgets. Dr. James stated that all agencies were instructed to keep budgets close to current levels for the coming year.

(Public School Fund) Mr. Kunkel stated that this budget reflects the addition of 13 new programs and the elimination of 5 programs as a result of action by the General Assembly during the special session. He noted that new revenue generated for education is included in this budget.

Ms. Rebick asked about the possibility of funding all categories of the Revenue Stabilization Act. Mr. Kunkel responded that it can and does happen, for example this year all categories of the Revenue Stabilization Act were met. He did note that this is the first time in many years that all categories were fully funded. He stated that any additional revenue available after all categories are funded goes into a special category from which state-level construction projects are funded and the Department generally does not benefit from any overage.

Ms. Hillman moved approval of the Operating Fund Budget and the Public School Fund Budget as presented. Mr. Lawson seconded the motion. The motion was approved unanimously.

Request for Open-Enrollment Charter School Amendment

Jim Boardman was recognized to present this item. Mr. Boardman reported that the newly formed Arise Open Enrollment Charter School in Monticello submitted a request to relocate to a different facility. He stated that Dave Floyd, Department facilities specialist, visited the proposed site and reported that it met code and was suitable for the program as proposed. Mr. Lawson moved approval of this request. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Consideration for Public Comment of Proposed Rules Governing Non-Traditional Teacher Licensure

Dr. Charity Smith was recognized to present this item. Dr. Smith stated that the non-traditional licensure program was created to help districts meet teacher shortages and that it has become a very important component of the licensure system. She informed

the Board that this year there are 430 teachers in the first year of the program and approximately 500 completing a second year of work.

Ms. Hillman asked how many teacher candidates graduate from the college/university teacher education programs. Dr. Smith reported approximately 1600 each year, but she stated many of those go to other states, some to other professions, some choose not to work, so the number that actually enter the classroom is considerably less than 1600.

Dr. Westmoreland inquired if the new PEDLAB Committee had reviewed the proposed rules. Dr. Smith affirmed and stated that comments from the Committee were incorporated. She continued that one such recommendation was that new teachers applying to the alternate licensure program must have the commitment of a teaching position prior to entry into the program.

Ms. Tatum moved approval for public comment. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Arkansas Better Chance Program Recommendations

Tonya Russell was recognized to present this item. Ms. Russell noted that the requests before the Board for consideration were essentially renewals of previously funded projects that were up for renewal. She stated that all of the proposals were reviewed and in keeping with established rules for program management. She did state that additional proposals would be forthcoming to be funded from new funds appropriated for pre-school children during the special session. Ms. Rebick moved approval of the proposals as presented. Ms. Burrow seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing the Distribution of Student Special Needs Funding for School-Year 2004-2005 and Additional Teacher Pay – Act 59

Patricia Martin was recognized to present this item. Ms. Martin reported that many hours of staff time and opportunities were provided for public input into the development and revision of this Rule. She also noted that Board members should have received a revised version of the Rule via Federal Express and that version is the one under consideration at this time.

Ms. Rebick questioned the verification of student data for calculating free and reduced price lunches from Section 3.07. Ms. Martin noted that that was covered in Section 6.02. Ms. Burrow questioned the use of current year data as opposed to previous year. Ms. Martin responded that Act 59 requires current year. Ms. Martin further elaborated that only 17 districts have a percentage that is “on the bubble” and the choice of year could make a significant difference in those schools, otherwise, the year will not have an impact on funding.

Mr. Gordy asked about the types of required professional development for administrators. Janinne Riggs responded that the requirements for professional development are described in the Rule for Act 35; she did confirm that use of data, data analysis and other requirements set by the Board are described in that Rule.

Dr. James stated that school administrators are acutely aware of the need to accurately and completely identify students as required in this Act.

Ms. Rebick inquired about the deletion of charter schools in the text of the Rule. Ms. Martin responded that charter schools are included in student counts and special language is not needed for them to participate in funding. Ms. Rebick also asked about the issue of highly qualified teachers and the impact on ALE, especially in smaller school districts. Ms. Riggs responded that the highly qualified teacher requirement is primarily an issue linked to *No Child Left Behind (NCLB)*, and there are a number of factors that contribute to that total issue. Ms. Riggs noted that the full implementation data for teacher quality under NCLB is not due until the 2005-2006 school year and new guidance that provides greater flexibility for small-rural schools is now available.

Dr. Westmoreland raised the issue of how the identified funds can be used. Dr. James responded that the general rule is that if a district meets standards, then the district has greater flexibility; however, districts that do not meet standards, including the minimum teacher salary, may not use those funds to meet standards.

Ms. Rebick expressed concern for how districts would use the funds and what oversight would be in place to keep funds from being spent on things like athletics. Ms. Riggs responded that each district would be required to provide a plan for use of the funds in the school/district improvement plan and that those plans would be monitored annually by Department staff. Ms. Riggs also stated that there will be detailed reporting and tracking on the use of those targeted funds.

Mr. Gordy cited information provided by the State Chamber of Commerce regarding the use of these funds. Dr. James referenced conversations with sponsors of the legislation to determine the intent. He stated that the Rules as drafted provide the greatest amount of flexibility allowed in the Act. He also noted that on at least two occasions the Department conducted statewide teleconferences to address the proposed Rule and communicate the interpretation to educators. He stressed that every school will be expected to demonstrate every year the effectiveness of the program in improving student achievement.

Ms. Rebick moved approval of the Rule as presented. Ms. Hillman seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing Special Education Catastrophic Occurrences – Act 59

Marcia Harding was recognized to present this issue. Ms. Rebick asked what would happen when or if funds awarded for these payments were diminished. Ms. Harding responded that the level of funding is projected on an experience base and has been adequate to date. Dr. King observed that accounting practices seemed difficult. Ms. Harding responded that the accounting procedures are the same that have been in place for several years. They meet the requirements of audit, and for the most part schools appear to have accepted the level of accountability required in this program.

Ms. Burrow asked if the funds could be used for 504 students. Ms. Harding responded no.

Ms. Rebick moved approval of the Rule as presented. Mr. Lawson seconded the motion. The motion was approved unanimously.

Final Approval of Rules Governing State Reported Dropout and Graduation Rates – Act 104

Jim Boardman was recognized to present this issue. Ms. Burrow asked if students classified as highly mobile were included in calculations of these statistics. Mr. Boardman responded yes. Mr. Lawson moved approval of the Rule as presented. Ms. Hillman seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing Grants for Distance Learning – Act 34

Jim Boardman was recognized to present this issue. Mr. Boardman summarized the major points that have raised questions during the public comment period: spending funds new equipment, retrofitting or maintaining old or current equipment, and the eligibility of open enrollment charter schools.

Mr. Gordy asked if the Rule would keep charter schools from using the funds. Mr. Boardman agreed that charter schools could not use these funds to purchase equipment. Mr. Gordy suggested that the wording in section 8.02 be revised by deleting “outdated,” because this gives the impression that the funds are being used on upkeep of old equipment.

Ms. Hillman asked about the qualifications of distance learning teachers. Mr. Boardman responded that distance learning supervisors at the school site are not required to be certified teachers; they do however have to have training.

Dr. Westmoreland moved approval of the Rule with the revision suggested by Mr. Gordy. Mr. Gordy seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing the Acquisition of Energy Conservation Measures – Act 58

Patricia Martin was recognized to present this issue. Ms. Martin stated that there were no comments or revisions proposed during the public comment period. Ms. Hillman moved approval. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing Uniform Budget and Accounting System – Acts 35, 40, 52, and 61

Patricia Martin was recognized to present this issue. Ms. Martin stated that there were no comments or revisions proposed during the public comment period. Ms. Tatum moved approval. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing Educational Financial Accounting and Reporting – Acts 35, 40, 52, and 61

Patricia Martin was recognized to present this issue. Mr. Gordy inquired about a budget reporting process that was in place. Ms. Martin stated that with the current system it is not entirely possible to isolate athletics expenditures – it is easy to bury caring for the grass on the football field with other lawn expenses. Mr. Gordy asked if there were any sanctions to be applied if districts failed to complete the reporting accurately. Ms. Martin stated that the Department may withhold funds. Ms. Caldwell asked about “may” withhold funds. Ms. Martin responded that the word “may” was used in the law and the rule cannot be stronger than the law.

Dr. Westmoreland asked about training for individuals who would be completing the reports. Ms. Martin stated that the Rule requires the person(s) responsible for making the report at the district level to attend state provided training sessions.

Mr. Gordy asked Dr. James if he were fully aware of these Rules and if he agreed that they provide the direction for the agency. Dr. James replied that he had read the Rules and that he thought they were appropriate and were in keeping with the direction the Department should be going.

Mr. Lawson stated his opinion that more transparency of data is the goal and that this was a step in the right direction, but that we should all endeavor to push for more transparency in everything in the future.

Ms. Rebick moved approval of the Rule with amendments discussed to Section 5.03.5 and 7.0. Mr. Lawson seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing Procedures for Best Financial Management Practices Review for Public School Districts – Acts 35, 40, 52, and 61

Patricia Martin was recognized to present this issue. Mr. Gordy asked Dr. James if the Department has adequate staff to effectively provide oversight in the ways that are being required by the legislature. Dr. James stated that there is a management audit coming and hopefully that study will recognize the personnel needs not only given by the legislature, but by federal legislation – especially by *No Child Left Behind*. He concluded that the Department will have greater needs in the future – hopefully this will be identified by the study.

Ms. Rebick moved approval. Dr. Westmoreland seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing Arkansas Comprehensive Testing Assessment and Accountability Program – Act 35

Janinne Riggs was recognized to present this issue. Ms. Riggs began by noting two additional changes (as listed on the handout) that were suggested after materials were distributed. She emphasized that this was not a completely new Rule, but a revision to the current Rule governing the assessment and accountability system previously adopted as the result of the Omnibus Education Act. She also proposed to delete the last sentence of Section 5.01.3.

Mr. Lawson suggested that Section 4.04 and Section 5.02.2 should be amended to include the use of the norm-referenced assessment test results. He stated that such an

addition was in keeping with the legislation and was appropriate. Mr. Gordy asked why the norm-referenced test (NRT) data was omitted from the accountability sections. Ms. Riggs stated that the NRT is not fully aligned with the State's content standards as is the criterion-referenced test. Mr. Gordy followed by asking if that same reasoning were true for longitudinal and value-added studies as well. Ms. Riggs responded yes, the CRT is still the operative choice.

Mr. Gordy inquired if there would be any use of the NRT data. Dr. Gayle Potter responded that the test contractors would be conducting linking studies with the NRT tests and data, but the accountability system will remain with the CRT. Mr. Gordy stated he did not see how the State could have longitudinal tracking without using both tests. Dr. James noted that beginning next year each grade from three through eight would be tested with the CRT and end-of-course tests would be given at the high school level.

Dr. Potter stated that after the full battery of CRT assessments is given for Grades 3 – 8 next year, then a new standard-setting process would be done, which will allow for the value-added calculations. She explained that work similar to that cannot be done this year because the State does not have assessments for every grade. Mr. Gordy asked who has the responsibility for doing the value-added work and to see that there is data for every student. Dr. Potter responded that the test contractor would be doing that work for all schools. Mr. Gordy stated that the Teacher Advancement Program (TAP) is doing that work in some schools, but it is very difficult to get it accomplished. Ms. Burrow asked for clarification if the value-added calculations would be done within a single year or across teachers and grades. Dr. Potter stated that testing is only done once a year in the spring, so the calculations would consider a year's growth.

In reference to section 5.03, Ms. Rebeck stated that she did not favor continuing to give waivers. Ms. Riggs responded that this was left in to give schools one last chance to finish alignment work and to give consideration to schools that are undergoing annexation or consolidation. She noted that those schools will have much work to do, in some cases starting over to get courses and content aligned. Ms. Riggs did suggest that staff will consider further revisions after this year and that will be one potential change to be made. Ms. Caldwell suggested that those districts involved in the consolidations could be targeted, but not make this available to all schools. She stated that schools have limited instructional time and the waivers decrease the number of instructional days. Dr. James stated that he does not have a problem with the waiver days. Ms. Caldwell asked the Department to consider each request very carefully and be sure that there is just cause to allow the waivers.

Mr. Gordy referred to Section 5.01.4 and inquired as to why only one half of the professional development could come from college/university course work. Ms. Riggs responded that was a component of the legislation. He asked why would policy want to limit the number of hours if the teacher were getting a license for an additional area of certification at the request of a district. Ms. Riggs responded, that's a condition of the legislation.

Ms. Burrow inquired about professional development requirements for educators not currently in the workforce, but who want to renew their license. Ms. Riggs indicated that this issue is yet to be determined, these Rules do not address that situation.

In reference to Section 5.06.1 and Section 6.05.1, Mr. Lawson questioned the option of the Department for informing the Board. He suggested a revision to these sections to read, "staff must report to the Board and the Board may...."

Ms. Burrow asked about the structure of a remedial course for students not proficient in Grade 11 Literacy. Ms. Riggs stated that this element of the legislation will have to be addressed by the General Assembly; otherwise it is impossible to administer.

Mr. Lawson expressed concern about the timeline for implementing the value-added system. He stated his opinion that any district should be allowed to request to be included in the value-added system any year. Ms. Riggs suggested that the Rule proposes involving a few schools in piloting the system rather than giving the option to every school. Mr. Lawson stated that if data are available for schools, then the system should be available to all districts and all schools. Ms. Riggs suggested that it would be more efficient to develop the system on a smaller, more controlled scale rather than open up to all schools.

Ms. Tatum inquired if the proposal was to use one year to develop the system, then open it up to everyone. Ms. Riggs responded yes. Mr. Lawson stated he believed it was important to make the system available to districts and schools so they can use the data. Ms. Riggs stated that the Department needs to make sure that the value-added and tracking systems are in place and the system is validated. She stated that working with a smaller number of schools and districts is important.

Mr. Gordy inquired as to the number of districts that might be in a pilot study. Ms. Riggs responded that that number would be determined following discussion with the Technical Advisory Committee (TAC) and those discussions are yet to come.

Dr. Westmoreland supported schools having an option in Section 11.01.

Ms. Caldwell asked for clarification on Section 13.02 regarding the timeline for schools being in academic distress. Scott Smith responded that after classification, the school has a maximum of two years to be removed from academic distress; otherwise sanctions will be applied.

Ms. Caldwell recognized Walter Hussman. Mr. Hussman stated his understanding of Act 35 was to provide accountability, transparency and choice. He cited the KIPP Academy Charter School in Helena as an example of how easy it is for the public to observe progress of students with a norm-referenced test. He voiced his disappointment at the limited emphasis on the norm-referenced test in making educational decisions and in the vertical scaling process being pushed off into the future. He stated that he believes Act 35 allows the Board to implement programs earlier and to delay action until the latest possible time allowed in the law simply delays reform. He stated that Kathy Smith from the Walton Family Foundation submitted comments to Act 35, many of which were not incorporated. Mr. Hussman stated that the Walton Family Foundation suggests pilot work with districts: it's very important for them to know what is involved and what they are doing wrong. He stated that the Board should be able to inform schools not in the pilot how they might perform.

Ms. Riggs responded that it was the intent of the Rule to draft a plan and bring it to the Board for review and approval. Dr. Potter stated that the Department is moving the

assessment system forward as rapidly as possible and that the testing requirements of Act 35 will be fully implemented next school year.

Ms. Riggs stated that Department staff is working to prepare a timeline to get this work completed in a timely manner. She noted that the Department is securing the services of Dr. Tom Fisher, one of the TAC Committee members, to assist with facilitation of this work.

Dr. James stated that the Department is committed to this work and it is not dragging its feet: the agency will move forward and will keep the focus of accountability, transparency and choice. He also noted that these Rules focus on meeting timelines specifically addressed in the statute; however, at times the Department can move faster than is specified in the Rule.

Ms. Rebick stated she understood Mr. Hussman's concern for moving fast, but she is convinced that this work cannot compare to a business perspective.

Mr. Lawson moved approval with revisions as discussed. Those include Sections 4.04; 5.02.2, 5.01.3, 5.06.1, 6.05.2, 5.04.4 and 11.01 (making the pilot available to all districts and schools that wish to participate). Mr. Gordy seconded the motion. The motion was adopted unanimously.

Final Approval of Rules Governing Advanced Placement Courses in the Four Core Areas in High School – Act 102

Dr. Charity Smith was recognized to present this issue. Dr. Smith stated that one of the major issues with this Rule was the proposal that students would not receive weighted credit for taking the Advanced Placement (AP) course unless they took the examination. Ms. Caldwell asked if that issue were not addressed in Omnibus. Dr. Smith affirmed that it was. Ms. Caldwell also asked that "ATP" be defined in the Rule before it was used in the text.

Ms. Rebick expressed concern for the teacher certification and required training. Dr. Smith responded that this was a problem for this year, but staff is working with the College Board to address this issue.

Mr. Gordy moved approval as amended. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Election of Officers for the Year 2004-2005

Ms. Hillman was recognized to report from the Nominating Committee. Ms. Hillman stated that the Nominating Committee proposed JoNell Caldwell as chairman and Dr. Jeanna Westmoreland as vice-chairman. Ms. Hillman moved that the slate be elected by acclamation. Ms. Tatum seconded the motion. The motion was adopted unanimously.

Other Business

Dr. James announced the need for a telephone conference call meeting on Monday, June 28 at 10:00. He stated that the agenda would be very limited, but would consider issues that need attention before July 1.

Ms. Hillman moved adjournment. Mr. Gordy seconded the motion. The motion was adopted unanimously.

The meeting adjourned at 3.30 p.m.

The Minutes were recorded and reported by Dr. Charles D. Watson.



Director, Dr. Kenneth James



Chair, JoNel Caldwell