

**UTAH STATE BOARD OF EDUCATION
MEETING MINUTES**

September 9, 2011

The Charter, Communications, and Audit Standing Committees of the Board met on September 8, 2011. All Board Members were present with the exception of Keith Buswell, Daniel Campbell, Janet Cannon, Dean Rowley, and Isaiah Spencer.

The Utah State Board of Education held a regular meeting on September 9, 2011 at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 8:03 a.m. At the request of Chair Debra Roberts, Vice Chair Dixie Allen conducted.

Board Members present:

Chair Debra G. Roberts	Member Michael Jensen
Vice Chair Dixie L. Allen	Member Carol A. Murphy
Member Tim Beagley (non-voting)	Member James V. (Jim) Olsen (non-voting)
Member Laurel O. Brown	Member C. Mark Openshaw
Member Kim R. Burningham	Member Tami W. Pyfer
Member Leslie B. Castle	Member Isaiah (Ike) Spencer (non-voting)
Member Craig E. Coleman	Member Teresa L. Theurer
Member Joel Coleman	Member David L. Thomas
Member David L. Crandall	

Excused: Members Keith M. Buswell, Janet A. Cannon, Daniel W. Campbell, R. Dean Rowley

Executive staff present:

Larry K. Shumway, State Superintendent of Public Instruction
Martell Menlove, USOE Deputy Superintendent
Brenda Hales, USOE Associate Superintendent
Todd Hauber, USOE Associate Superintendent
Judy Park, USOE Associate Superintendent
Don Uchida, Executive Director, Utah State Office of Rehabilitation
Lorraine Austin, Board Secretary

Others present:

Dawn Davies, Utah PTA; Kory Holdaway, Utah Education Association; Gayle Ruzicka, Eagle Forum; Deon Turley, Utah PTA; Charlene Lui, CMAC; Soulee Stroud, CMAC; Shirley Arnett, American Federation of Teachers; Shawna Baird, American Federation of Teachers; Dawn Ann Bullough, Salt Lake City; Jim Johnson, USSA; Jennifer Boehme, Jordan Education Association; Margaret Bird, USOE; Natalie Gochnour, Salt Lake Chamber; Ryan Anderson, Grand County High School; Geoff Leonard, USEA; Pete Previte, Ogden resident

Welcome

Vice Chair Dixie Allen called the meeting to order at 8:03 a.m. Members Buswell, Cannon, Campbell, and Rowley were excused. Members Thomas and Castle would join the meeting later.

Member Laurel Brown led the Board in the Pledge of Allegiance.

Opening Remarks

Member Tami Pyfer gave opening remarks. She told the Board about her involvement in a task force that was instrumental in putting into place an upgraded emergency response system in Cache Valley that serves a much greater area than the previous system. For many years changes to the system were unable to be made due to political and controlling concerns. Rather than focusing on the reasons why a change would not work, the task force focused on what needed to be done to make a new system work. With new funding and a new joint effort, model services are now being provided, and many lives have been saved.

Member Pyfer likened this to the work of the Board in that often the Board is faced with implementing new systems and considering ideas that receive push back. She challenged the Board to invite others to stop talking about the reasons why something won't work, and help the Board craft something that will work.

Promises to Keep Highlight - Promises to Keep Legislative Agenda

Superintendent Larry Shumway reviewed the Board's Promises to Keep vision and mission— literacy and numeracy, high quality instruction, rigorous and relevant curriculum, and effective assessment—in relation to its proposed legislative agenda. He summarized the legislative items that will be discussed and suggested policy questions for the Board to consider as it moves forward with proposed legislation.

- Orderly Termination and Educator Evaluation Acts
 - Should H.R. policy for districts be made by the legislature or local boards?
 - Should an expectation of continued employment be perpetual or something less?
 - Should there be compensation differentiation based on performance?
 - Where should policies about differentiated or performance-based compensation be made?

- Changes to SEOP and graduation requirements
 - Can a better job be done of connecting students to post-high-school opportunities?
 - How can students be motivated to follow through on their plans?
 - Is the current level of education that students receive in high school adequate for the world they'll encounter?
- Changes to the charter school process
 - Is there an opportunity to learn and grow more in terms of both parent choice and what can be learned from charter schools?
 - Is there an opportunity to build on an original premise in the charter movement that charter schools can be a test bed for experimentation?
- Underperforming Schools
 - How should the State Board or State Superintendent be involved in persistently low-performing schools in Utah?
- School Trust Lands
 - Who represents the beneficiaries of the Trust—primarily the children of the state of Utah?

The Board recessed into committee meetings. The Board reconvened at 10:04 a.m.

Achievement Spotlight

Associate Superintendent Brenda Hales spotlighted Provo Peaks Elementary School. The school, where eighty percent of the students are disadvantaged, exited Title I Improvement this year. Key measures that have moved the school's achievement forward include a school leadership team that is more responsive and available, hiring of an outstanding Title I coordinator, implementation of professional learning communities, implementation by teachers of a literacy program, regular administration visits to classrooms, a partnership with Brigham Young University, and a school community that celebrates their successes. The school has become a model for the state.

Chair Roberts and Superintendent Shumway congratulated Principal Alex Judd with a certificate of excellence.

Public School Data Gateway Demonstration

Associate Superintendent Judy Park distributed information and reviewed four major data projects in process: UTREx, Utah Data Alliance, Data Display, and the Public School Gateway. The newest tool that has been developed is the Public School Data Gateway. This tool is the portal for the public to access specific data about classrooms, schools and districts.

John Jesse, USOE Director of Accountability and Assessment, demonstrated the Data Display and Data Gateway. [For complete details, see General Exhibit No. 11624.]

Grading Schools Report

Associate Superintendent Park distributed and reviewed information about the Utah Letter Grade Accountability System. As a result of legislation passed in the 2011 Legislative Session, every school must be given a letter grade. A report card with the grades for schools will be part of the Data Gateway a year from now. The law requires that every school be given a grade, A through F, and that the grade be based on proficiency on CRTs, adaptive tests, and direct writing assessments. The law also requires measurement of growth, and for high schools, measurement of college and career readiness.

A stakeholder group has been working since March on the process of determining how to grade schools. The final framework will be presented to the Board for approval in the next couple of months. Once the framework is approved, the committee will continue to meet December through April to determine specific grade cut scores and develop the report card. [For complete details, see General Exhibit No. 11625.]

Executive Officer Report

Superintendent Larry K. Shumway reported on the following:

- Information was given about the Superintendent's Teacher Fitness Challenge. The challenge will include a 5K Run, Ragnar Relay for educator teams, and K-12 Summer Fitness Camp.
- Regional meetings have been held with district superintendents throughout the state.
- The Legislative Executive Appropriations Committee has asked for in-depth budget review of the Minimum School Program and State Office of Education. The review process has begun and will be reported in the November Executive Appropriations meeting.

- Information about the Direct Writing Assessment, Utah Performance Assessment System for Students, and NCLB Adequate Yearly Progress was reviewed.
- The current status of redistricting was reviewed. No map has yet been adopted for State Board districts.
- A meeting of all the state school chiefs in the Smarter Balanced Assessment Consortium was held last month. The goal is an improved assessment system that will not cost more than the current system.
- An update was given on the online education program in place as a result of SB65 *Statewide Online Education Program*. There are 170 course credit acknowledgments to date. The Electronic High School courses are not reflected in that number. The legislation has led to more online opportunities for students, as districts have also created opportunities.
- An annual report of the USDB will be given to the Education Interim Committee at its September 21 meeting.

[For complete details, see General Exhibit No. 11626.]

Board Chair Report

Chair Debra G. Roberts reported on the following:

- Audit Committee Report - Natalie Grange, Internal Auditor, distributed and reviewed Report No. 2010-16A, *Compliance with State Procurement and Purchasing Policies for Canyons School District*. There were two minor findings. An audit of every local education association (LEA) will be conducted. [For complete details, see General Exhibit No. 11627.]
- Member Laurel Brown reported on a meeting with the U.S. Army regarding education. The army is very concerned about the development of the individual and the education of America's youth. A presentation was given at that meeting on the Army's aptitude test—the ASVAB. It was suggested this test could fit into a student's College and Career Ready Plan.
- Chair Roberts attended meetings with Speaker Becky Lockhart on UCAT issues and the Eagle Forum regarding the Common Core. She also participated with a research group with the Smarter Balanced Assessment Consortium.

- Meetings of the Governor's Education Excellence Commission continue. One of its main concerns is the cut in Pell grants. Chair Roberts will be participating on a subcommittee of the Commission—a Women in College Task Force.
- The Board calendar of upcoming meetings was reviewed.

Coalition of Minorities Advisory Committee (CMAC) Report

Member Isaiah Spencer, the Board's CMAC representative, introduced Ms. Charlene Lui and Mr. Soulee Stroud from CMAC. They gave a presentation on the Enhancement for At-Risk Students Program. In the last legislative session, several at-risk programs were put into a block grant that received an \$8 million cut, and line items for specific programs were eliminated. They expressed concern that successful programs are not receiving funding. Information on Family Literacy Centers was given to the Board Chair.

The following recommendations from CMAC were forwarded, that the Board: 1) Support restoration of line item categories for the upcoming fiscal year; and 2) provide specific language in the Board rule for the Enhancements for At-Risk Students Program that designates a minimum baseline for each program. [For complete details, see General Exhibit No. 11628.]

Member Carol Murphy reminded the Board that with the block grant, local districts are given flexibility on how to distribute the funds among the outlined at-risk programs. Information on how those funds have been used would be helpful.

Proposed Legislation and Budget Recommendations for 2012 Legislative Session

Orderly Termination Act and Educator Evaluation Act

Superintendent Shumway summarized proposed changes that include answers to policy questions, that personnel policy should best be made at the local level, that perpetual expectation of employment should be more than zero, but less than perpetual, and that there should be some differentiated compensation based on performance, best developed at the local level.

Motion was made by Member Tami Pyfer and seconded by Member Joel Coleman that the Board support the concepts for changes to the Orderly Termination Act and Educator Evaluation Act outlined on the distributed Legislative Agenda and move them forward. The concepts outlined are:

- Repeal 53A-8-101 through 53A-8-107 (*Utah Orderly School Termination Procedures Act*) and 53A-10-101 through 53A-10-108 (*Educator Evaluation*), generally devolving responsibility for personnel policy to district boards of education.
- Enact a new section 53A-8a that assigns responsibility for education workforce management to local governing boards, with provisions for general control and supervision by the State Board of Education.
- In the new enactment, create limitations on the duration of expectation of continued employment. District and charter school policies, contracts, or practices may create expectations of continued employment with the limits of statute and board rule.
- In the new enactment, create provisions for the incremental development of performance pay elements in district and charter school compensation programs.
- In the new enactment, provide a ten-year opt-out clause for employees who are “career employees” under current statutory provisions.

Member Kim Burningham spoke in opposition to the changes. He felt it is contradictory to give power to local entities, but then tell them what they must do. He is not opposed to performance-based pay, but is troubled about terminating teachers without cause. He felt it would be very disheartening to Utah’s core of teachers to move in this direction a great deal more discussion.

Member Carol Murphy spoke in support of the concepts, and suggested looking at how they will move the profession forward.

Member Joel Coleman suggested that the Board is not unfriendly to teachers. The changes will support LEAs and give them control to deal with situations where employees are not the right fit, but have not done something that would warrant termination under the current system.

Member Laurel Brown indicated she would like to see empirical data showing that what is being proposed will be beneficial, and what the effects of such a change would be on the total system. She expressed concern that the result will be a system that will pit districts against each other. She also asked the Board to consider what educators have faced in the last few years, such as cuts in professional development and pay. Administrators and classified employees are also part of the system, and need to be considered.

Member Isaiah Spencer expressed that as a principal, he is able to terminate based mostly on violations of policy. It is not difficult to identify teachers that need to be replaced, but unless they have violated policy, it is very difficult to terminate and takes at least three years.

Member Leslie Castle related that all have experienced wonderful teachers, but some teachers are not providing the educational experience for which the citizens in Utah are willing to pay. People in most professions are held accountable for their job performance. She expressed that children in the classroom should not take a second seat to the protection of teachers.

Vice Chair Dixie Allen relinquished the Chair temporarily to Chair Roberts in order to address the question. She reported on her experience as a teacher and administrator for many years, and indicated that a quality administrator can terminate bad teachers. She beseeched the Board to think about what choices teachers have regarding their circumstances with students, subjects, and classrooms. She also asked the Board to consider the legalities of terminating without cause.

Member Pyfer pointed out that in the last bullet point it allows for the idea of an opt-out clause for career employees that don't want to move to a new system. The changes are looking at a new system—one that is not just to fire bad teachers, but also award teacher performance.

Deputy Superintendent Martell Menlove indicated that some process for termination will still need to be in place. Neither the legislature or Board can eliminate employment rights that are mandated federally. He expressed confidence in administrators, principals, and local boards, that termination will not become arbitrary and capricious.

Member Craig Coleman spoke in support of the motion, as he strongly supports the idea of giving to LEAs the authority and ability to make human resource decisions. He is also supportive of performance pay. In addition, he suggested it is important that the Board use this opportunity to push for more resources for professional development so that teachers can succeed in the classroom.

The following public comment was given:

Superintendent Jim Johnson, President, Utah Schools Superintendents Association (USSA) - Distributed a memo from the Utah School Superintendents Association/Utah School Boards Association/Utah Association of School Business Officials in response to the USBE Legislative Agenda. The organizations are requesting that the Board slow down and

have dialogues with all associated with the particular issues before passing a motion to move forward.

Kory Holdaway, Utah Education Association (UEA) - Mr. Holdaway shared a response from UEA President, Sharon Gallagher-Fishbaugh, expressing that this legislation would not be in the best interest of students, teachers, and public education. She indicated UEA and teachers are ready to work together on reforms that will improve education. Mr. Holdaway questioned whether it should be easy to terminate teachers, and made the point that teachers are not afraid to be evaluated.

Geoff Leonard, Utah School Employees Association (USEA) - a response was read from USEA. Mr. Leonard expressed that the draft legislation is harsh towards classified school employees, as the repeal would take away their career standards, but there are no provisions for them in the new law. He asked the Board to slow down and look at issues for all involved to make sure all employees are treated fairly.

Pete Privet, Ogden resident - indicated that the mechanism already exists to terminate teachers, and expressed his feeling that it will be a mechanism that will discourage new teachers. There is no data that shows performance standards improve schools.

Representative Derrick Brown, Utah House of Representatives - expressed that everyone has an anecdote about a poor teacher, and indicated that any principal that has gone through the procedure of terminating has found it is so personally and professionally enervating that he hesitates to do it again. He applauded the Board for looking at solutions.

Shirley Arnett, Vice President, American Federation of Teachers (AFT) - expressed fears that the changes will eliminate even good teachers. She related her experiences as an educator, and informed that had she not had the protections of tenure she would have been terminated because she became pregnant or bucked the system. Provisions are already in place whereby a quality administrator can terminate a teacher.

[For complete details see General Exhibit No. 11629.]

Member Tim Beagley also questioned why the Board would give control to local boards, but then tell them what to do. Superintendent Shumway responded that the USBE would be operating from a position of general control and supervision. It will be important to look at the balance between local control and general expectations.

Motion to approve the outlined concepts of changes to the Orderly Termination Act and Educator Evaluation Act carried, with Members Castle, C. Coleman, J. Coleman, Crandall, Jensen, Murphy, Openshaw, Pyfer, and Roberts in favor, and Members Allen, Brown, and Burningham opposed; Members Buswell, Cannon, Thomas absent.

Changes to SEOP and graduation requirements

Motion was made by Member Mark Openshaw and seconded by Member Carol Murphy that the Board support the first three bullet points as outlined on the Legislative Agenda and move them forward, and support ongoing discussions on the remaining bullet points.

The points outlined on the Legislative Agenda are as follows:

- Amend 53A-1a-106 *School District and Individual School Powers* to replace the requirement for student education/occupation plans (SEOP) with college and career ready plans.
- Amend R277-462 *Comprehensive Counseling and Guidance Program* to define college and career ready plans and to identify college and career pathways. Amend other Board rules in which the term SEOP is used, replacing it with college and career ready language.
- Amend R277-700 *The Elementary and Secondary School Core Curriculum* to establish a differentiated diploma that recognizes the completion of a college and career ready plan.
- Require the completion of 2.0 of high school requirements (an average of .5 credits per year) through online offerings, with specific courses identified by the Board as only available on line.
- Amend 53A-15-1001 through 53A-1006 to maintain the Utah Electronic High School (EHS) and to define the role of EHS as offering the required online courses for graduation and offering limited core course for both flexibility in student scheduling and remediation, with an appropriation as needed.
- Increase high school graduation requirements by 2.0 credits, with an additional .5 credit requirement in U.S. government and civics, 1.0 credit in mathematics, and .5 credit to be identified.

Superintendent Shumway reviewed the concepts. The current Student Education Occupation Plan (SEOP) process has been in place for more than twenty years. He suggested that a next generation of SEOPs, called College and Career Ready Plans, be put in place. College and career readiness would mean students connecting into a pathway that will result in them being ready for what is next at the end of high school. He suggested that to strengthen college and career ready plans and give some weight and motivation to students to complete the plans, a differentiated diploma be established. The diploma would recognize that a student has completed a plan. The diploma would be open to all, no matter what the pathway.

The last three bullet points are related to the idea that students increasingly need more education. Online courses would be a way of moving some high school requirements to an online offering, and could be offered inexpensively through the Electronic High School. If that happens, additional requirements for graduation could be considered.

Member Debra Roberts moved that Citizenship be added to college and career ready plans. Members Openshaw and Murphy accepted the amendment.

Member Craig Coleman expressed concern that as online offerings are considered, not only quantity, but also quality be considered. He cautioned that a single provider may not be able to maintain the integrity of courses.

Member Laurel Brown spoke in favor of the motion, particularly of a differentiated diploma based not on academics, but on completing a plan.

The following public comment was given:

Superintendent Jim Johnson, President, Utah Schools Superintendents Association - expressed support for the motion, particularly the change to college and career ready plans.

Natalie Gochnour, Executive Vice President, Salt Lake Chamber - reported that the Chamber has taken note of the Board's legislative agenda and appreciates the Board's diligence. Utah business leaders see education as the path to enduring prosperity. They are not professional educators and do not profess to know specific policies that improve teacher performance, but believe that the application of business principles will improve performance, and that eliminating perpetual expectation of employment will be positive. They also support performance-based compensation for teachers, and express that Utah is fortunate to have so many talented, competent teachers.

Motion to support the first three bullet points under changes to SEOP and graduation requirements, with the addition of citizenship to college and career ready plans, and to continue discussion on the remaining bullet points, carried; Members Buswell, Cannon, Castle, and Thomas absent.

Changes to the Charter School Approval Process

Superintendent Shumway reviewed the proposal that the law be amended to create a charter school committee that would establish a set of priorities to encourage experimentation in certain types of programs. While the charter process has been very successful, the change would move the state forward and signal areas of experimentation or need that could be filled by charter schools. Additional weight would be given by the State Charter School Board to applications that include those approaches. It is not intended to remove any of the Charter Board's authority over the application process or restrict charter applications.

Motion was made by Member Carol Murphy and seconded by Member Mark Openshaw that the Board move forward with changes to the charter school process as outlined on the Legislative Agenda with the following changes: Under bullet #1, eliminate the committee membership; under the second bullet, add: 5) funds available for start-up and continued operation of a charter.

Concepts outlined on the Legislative Agenda are as follows:

- Amend 53A-1a-513 *Funding for Charter Schools* to create a state charter school start-up committee, comprised of the state superintendent, the state charter school board chair, the state director of charter schools, and the chairs of legislative committees on public education.
- Empower this committee to determine the amount, duration, and number of state and federally funded charter school start-up grants based on 1) unique and new instructional approaches; 2) unique and new target populations to be served; 3) establishment of charter schools in geographic areas where charter schools are not available; and 4) the probable long-term success of the school.

Member Murphy commented that the changes would facilitate looking at new and unique ways to further the charter mission. Also, in practically going forward there will be little federal

and state money available, and this addresses how to spend limited resources for charter schools starting up.

Member Joel Coleman spoke against the motion. He expressed that it is completely antithetical to his understanding of what the Charter Board was set up to do, and creates a duplication of responsibilities. It may be ideal to encourage different kinds of charter schools, but it is problematic for him that those schools be given preferential treatment. There is already a competitive bid process in place.

Member David Crandall spoke against the motion. He felt that primarily, it does not take into account other authorizers, specifically school districts and higher education.

Member Tim Beagley reported that the State Charter School Board has a very arduous process in place to get charters through to the Board of Education. It is difficult for organizers to develop good applications that meet all of the expectations and meet the innovations they are trying to implement. He expressed that though there may be a need for enticements, it would not be effective to have people go through the process of completing the application and then tell applicants that the money is going elsewhere. All schools need start-up funds.

Deputy Superintendent Menlove suggested taking the word "federal" out of the statements, as there is currently not federal start-up money available. He also clarified that in the current law the total responsibility of granting start-up funds is given to the State Superintendent.

Public comment was given as follows:

Chris Bleak, President, Utah Association of Public Charter Schools - expressed appreciation to the Board for looking at funds to help provide incentives for charter schools to get started. As a general rule, the Association wants to make sure the authorization process is competitive, and that through the process applications for the types of charters and innovations that are preferred be identified, but that start-up funds not be used in any way as a lever in picking winners and losers. Mr. Bleak extended a pledge from the Association to work with the State Superintendent to find processes that will respect the authorization process and meet the goals of greater choice and greater innovation in charter schools.

Superintendent Dale Lamborn, Rich School District - asked that with all the proposals for changes in legislation, a request for resources to implement the changes be included. District resources are extended as far as they can go, and one legislative change without resources can put the funding responsibility on the districts.

Mark Bouchard, Chairman, Prosperity 2020 - reminded the Board that Prosperity 2020 is a business-led, statewide organization, where business leaders are engaged in education discussions for solutions and advocacy of education leaders. Their primary goal is to make sure education has the resources and tools to be effective. He assured the Board that the business community understands there are legislative and fiscal challenges, and will work to offer solutions as the Board seeks to innovate.

Motion to approve the concepts for changes to the charter school approval process as amended failed, with Members Allen, Brown, C. Coleman, J. Coleman, Crandall, Jensen, Openshaw, Pyfer, and Thomas opposed, and Members Burningham, Murphy, and Roberts in favor; Members Buswell, Castle, Cannon absent.

State Superintendent Requirements Relative to Persistently Underperforming Schools

Superintendent Shumway related that often underperforming schools that receive additional funding over a period of time, continue to perform poorly. There are incredibly difficult challenges with schools that are persistently underperforming. It is his sense that at some point there should be involvement at the Board and State Superintendent level in those schools. The concepts outlined establish a method for identifying those schools, authority to be involved, requirements for an improvement plan, and provision of resources to assist with the improvement plan.

Motion was made by Member Debra Roberts and seconded by Member Tami Pyfer that the Board moved forward with concepts as outlined on the Legislative Agenda, making certain that local control is respected and supported, with a particular emphasis on the aspect of resources.

The concepts are outlined as follows:

- Amend 53A-1-301 to require that the state superintendent establish a method for identifying Utah's persistently underperforming schools.
- Provide authority to the state superintendent to require and to approve plans for improvement in persistently underperforming schools.
- Provide for resources that the superintendent may make available to persistently underperforming schools.

Member Burningham questioned why the changes couldn't be done by Board rule. Superintendent Shumway responded that statutorily the Board's involvement is prohibited.

The following public comment was given:

Superintendent Jim Johnson, USSA - cautioned the Board to be very careful on the allocation of resources. He also expressed that USSA's preference would be to have a Board rule rather than legislative action.

Member Dixie Allen reminded the Board to consider the grading schools implementation and make sure it will dovetail into this legislation.

Motion carried with Member Kim Burningham abstaining; Members Buswell, Cannon, Castle absent.

Changes to School Trust Lands Requirements

Draft 2012 School Children's Trust Bill: Version 11 was distributed. Deputy Superintendent Martell Menlove reported it includes language that will strengthen the position of the State Board of Education and help clarify the position of the School Children's Trust Section at the State Office of Education. He reviewed the proposed changes as outlined on the Legislative Agenda. He explained that the fourth bullet is Board rule which will come forward from the Instruction, Technology, and Student Support Committee today. The concepts are outlined as follows:

- Amend 53C-1-103 to define beneficiary representative to include the State Board of Education.
- Amend 53C-1-203 to change the appointment process for the Board of Trustees nominating committee.
- Amend 53C-1-303 to require the director/board of trustees to notify beneficiary representatives regarding major items that would be useful to protect beneficiary rights and to permit the beneficiary to inspect and examine trust records and documents.
- Amend R277-477 *Distribution of Funds from the Interest and Dividend Account* to define duties and responsibilities of the School Children's Trust section staff.

Motion was made by Member Laurel Brown and seconded by Member David Crandall that the Board adopt the wording in *Draft 2012 School Children's Trust Bill: Version 11* and the concepts as listed on the Legislative Agenda under Changes to School Trust Lands Requirements. Motion carried; Members Buswell, Cannon, Castle absent.

Budget

Associate Superintendent Todd Hauber reviewed the list of possible budget priorities for FY2013. He clarified that the numbers on enrollment growth are placeholders, not the actual numbers.

Motion was made by Member David Thomas and seconded by Member Mark Openshaw that the Board prioritize as follows: 1) college readiness test; 2) computer assisted testing technology; 3) enrollment growth; 4) optional extended-day kindergarten (OEK); 5) Utah Common Core; 6) charter school start-up funding. In addition, one-time money for UCAT funding.

Substitute motion was made by Member Kim Burningham and seconded by Member Tami Pyfer that enrollment growth be moved to first on the priority list and that restoration of at-risk funding be added at the end.

Motion was made by Member Debra Roberts that the substitute motion be divided into two parts: the first to move enrollment growth, and the second to add restoration of at-risk funding. The motion was divided by general consent.

Substitute motion to move enrollment growth to number one failed, with Members Allen, C. Coleman, J. Coleman, Crandall, Jensen, Openshaw, Roberts, and Thomas opposed, and Members Brown, Burningham, Murphy, and Pyfer in favor; Members Buswell, Cannon, Castle absent.

Substitute motion to add restoration of at-risk funding to the end of the priority list carried, with Members Allen, Brown, Burningham, C. Coleman, J. Coleman, Crandall, Jensen, Openshaw, Pyfer, Roberts, and Thomas in favor, and Member Murphy opposed; Members Buswell, Cannon, Castle absent.

Original motion as amended carried, with Members Allen, Brown, C. Coleman, J. Coleman, Crandall, Jensen, Murphy, Openshaw, Pyfer, Roberts, and Thomas in favor, and Member Burningham opposed; Members Buswell, Cannon, Castle absent.

Associate Superintendent Hauber reported that the Utah State Office of Rehabilitation (USOR) reports to a different legislative committee than public education, therefore does not compete with education priorities.

Motion was made by Member Laurel Brown and seconded by Member Tami Pyfer that the Board support the USOR budget priorities. Motion carried with Members Allen, Brown, Burningham, C. Coleman, J. Coleman, Crandall, Jensen, Murphy, Openshaw, Pyfer, and Roberts in favor, and Member Thomas opposed; Members Buswell, Cannon, Castle absent.

Member Joel Coleman indicated he is not in support of the USDB budget item for mapping cochlear implants. Member Brown spoke in favor of leaving audiologists in place. It was suggested that further discussion of USDB budget items be continued in a future meeting. It was clarified that USDB items are not identified as priorities, but could be listed as items supported by the Board.

[For complete details, see General Exhibit No. 11630.]

Board Standing Committee Reports

CHARTER SCHOOLS COMMITTEE

Committee Chair Carol Murphy reported on the following items from the Charter Schools Committee.

Weilenmann School of Discovery Charter Amendment

Motion from Committee that the Board accept the recommendations of the State Charter School Board and approve an amendment to the charter of Weilenmann School of Discovery to change its maximum number of students in each classroom to 25. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11631.]

Syracuse Arts Academy Charter Amendment

Motion from committee that the Board accept the recommendation of the State Charter School Board and approve an amendment to Syracuse Arts Academy Charter. The amendment modifies the school's governing board composition by requiring that a minimum of 25 percent of the board members be parents of students currently attending the school, without the restriction that it be the parent organization president; that family relationships and governing board membership is better defined; that the school calendar meet the needs of the school community; and that the parent grievance policy be modified. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11632.]

Baer Canyon High Charter Amendment

Motion from Committee that the Board accept the recommendation of the State Charter School Board and approve an amendment to the Baer Canyon High School Charter to postpone opening until the 2012-2013 school year and reduce its ultimate enrollment to 450 students (300 in grades 10-11 in 2012-2013; +150 and grade 12 in 2013-2014). Motion carried; Members Buswell, Burningham, Cannon, Castle absent. [For complete details, see General Exhibit No. 11633.]

Charter Schools R277-470

The committee reviewed recommended changes to R277-470 made by the State Charter School Board, including moving several sections to separate rules, and technical corrections. The committee approved R277-470 *Charter Schools* on first reading and moved that the Board approve the rule on second reading. Motion carried; Members Buswell, Burningham, Cannon, Castle absent. [For complete details, see General Exhibit No. 11634.]

Charter School Oversight, Monitoring and Appeals R277-481

The State Charter School Board requested review of new rule R277-481. The rule consists of sections taken from R277-470 *Charter Schools*, and includes new minimum standards for performance and processes for correcting deficiencies. An amendments sheet was

distributed. The committee approved R277-481 *Charter School Oversight, Monitoring and Appeals* as amended on first reading, and moved that the Board approve on second reading.

Substitute motion was made by Member Joel Coleman to add under the appeals section, the removal of a school's officers or employees. Member Tim Beagley pointed out that line 217 references 53A-1a-509, which specifically states that those individuals that can be removed are the director, business manager, and board members. Member Murphy indicated she will determine whether the rule aligns with statute. Member Coleman withdrew his substitute motion.

Original motion carried; Members Buswell, Burningham, Cannon, Castle absent. The rule will be brought back to the Charter Schools Committee for third reading in November to clarify the issue of removal of a school's officers or employees. [For complete details, see General Exhibit No. 11635.]

Charter School Timelines and Approval Processes R277-482

The State Charter School Board requested review of new rule R277-482. The rule consists of sections taken from R277-470 *Charter Schools* and includes new time lines for approval and notification processes for expansion of schools. An amendment sheet was distributed and reviewed. The committee approved R277-482 *Charter School Timelines and Approval Processes* as amended on first reading, and moved that the Board approve on second reading. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11636.]

State Charter School Board Amended Bylaws

The Committee reviewed changes to the State Charter School Board Bylaws. The bylaws were amended to include a section outlining the process for a hearing, change in the months in which the State Charter School Board meeting schedule is approved, and change in the language to include "an organization that represents Utah charter schools" as an advisor to the Charter Board. Some amendments were at the recommendation of the Charter School Committee based on discussion at its June 2, 2011 committee meeting. [For complete details, see General Exhibit No. 11637.]

STANDARDS, CURRICULUM, AND STUDENT SUCCESS COMMITTEE

Committee Chair Laurel Brown reported on the following items from the Standards, Curriculum, and Student Success Committee.

Applied Technology Education (ATE) Leadership R277-914

Consistent with the Utah Administrative Rulemaking Act, each rule writing agency is required to review each of its rules within five years of the rule's original effective date or within five years of the filing of the last five-year review, to determine if the rule should be continued. The committee approved both continuation of R277-914 *Applied Technology Education (ATE) Leadership* and amendments to the rule on first reading, and moved that the Board approve continuation and amendments on second reading. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11638.]

Prohibition of Corporal Punishment in Utah's Public Schools R277-608

R277-608 *Prohibition of Corporal Punishment in Utah's Public Schools* has not been substantively amended since 1992. At the request of the committee, the rule will be brought back with amendments next month. [For complete details, see General Exhibit No. 11639.]

Utah Common Core Curriculum and Assessment Update

Associate Superintendent Brenda Hales distributed and reviewed information regarding the summer Common Core Academies, Common Core awareness training for higher education representatives, and a discussion with LEA leaders on the new Core implementation. [For complete details, see General Exhibit No. 11640.]

DATA, ASSESSMENT, AND ACCOUNTABILITY COMMITTEE

Committee Vice Chair Kim Burningham reported on the following from the Data, Assessment, and Accountability Committee.

State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program R277-422

During the 2011 General Legislative Session, HB 301 *School District Property Tax Revisions* was passed. This bill consolidated the existing thirteen school district tax levies into six property tax levies. Board Rule R277-422 *Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvements Program* was amended to reflect changes in the bill. The name of the rule was also changed.

The Committee approved R277-422 *State Supported Voted Local Levy, Board Local Levy and Reading Improvement Programs* as amended on first reading, and moved that the Board approve on second reading. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11641.]

Student Transportation Standards and Procedures R277-600

During the 2011 General Legislative Session, HB 301 *School District Property Tax Revisions* was passed. Board Rule R277-600 was amended to reflect changes in the bill.

The Committee approved R277-600 *Student Transportation Standards and Procedures* as amended on first reading, and moved that the Board approve on second reading. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11642.]

Indirect Costs for State Programs R277-424

R277-424 *Indirect Costs for State Programs* has not been substantively amended since 1987. Staff reviewed the rule and determined amendments were necessary to make it consistent with law and policy.

The Committee approved R277-424 as amended on first reading, and moved that the Board approve on second reading. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11643.]

Taxing Entity Committee (TEC) to the Redevelopment Agency of Salt Lake City
North Temple Urban Renewal Area Budget

The Redevelopment Agency of Salt Lake City has determined that the blight-based North Temple Project Area requires assistance from the RDA to revitalize and improve the corridor along North Temple Street. This will be a 25-year project and the estimated total amount of tax increment is approximately \$75.1 million. Of that amount, Salt Lake City School District will receive approximately \$7.7 million. In addition, if the improvements are made, a new elementary school may be built in that area.

Mr. Larry Newton, USOE Finance Director, recommended to the committee that the Board support the project.

Motion from Committee that the Board confirm support of the North Temple Urban Renewal Project as recommended, and authorize Mr. Larry Newton and Ms. Kathy Dudley to continue to represent the Board on the taxing entity. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11644.]

Special Needs Scholarship Annual Report

A report of the Special Needs Scholarship detailing activities resulting from administration of the scholarship during 2010-2011 was given to the Committee. [For complete details, see General Exhibit No. 11645.]

INSTRUCTION, SUPPORT, AND TECHNOLOGY COMMITTEE

Michael Jensen, Committee Vice Chair, reported on the following items from the Instruction, Support, and Technology Committee.

Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program R277-477

Board Rule R277-477 was amended to make the rule consistent with state law if School LAND Trust funds distributed to schools are reduced or eliminated resulting from an elections audit conducted by the Legislative Auditor General. The amendments also provide clarification regarding the distribution of funding to schools.

The Committee passed R277-477 *Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program* on first reading as amended, with an additional amendment on line 30, Section 4H, to read, “. . . results of a Legislative Auditor’s school community council election review process.”

Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11646.]

Child Abuse-Neglect Reporting by Education Personnel R277-401

Board Rule R277-401 has not been substantively amended since 1987. Staff reviewed the rule and determined that amendments were necessary to make it consistent with law and policy. A sheet with additional amendments was distributed.

The Committee approved R277-401 *Child Abuse-Neglect Reporting by Education Personnel* on first reading as amended, and moved that the Board approve on second reading. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11647.]

Utah Professional Practices Advisory Commission Appointment Process R277-106

Board Rule R277-106 has not been substantively amended since 2002. The rule was revised to include a section on filling vacancies and other changes recommended by staff.

The Committee approved R277-106 *Utah Professional Practices Advisory Commission Appointment Process* on first reading and moved that the Board approve on second reading. Motion carried; Members Buswell, Cannon, Castle absent. [For complete details, see General Exhibit No. 11648.]

COMMUNICATIONS COMMITTEE

Committee Chair Tami Pyfer reported on the following items from the Communications Committee.

- Chair Debra Roberts announced that in the future, the Communications Committee will meet twice a year as the USDB (Utah Schools for the Deaf and the Blind) Committee.

- The Committee is working with the USOE to prepare materials to report to the public on the Orderly Termination Act discussion.
- Appreciation was expressed to Board Members that have posted to the blog. More participation, including letters to the editor, is needed.
- Feedback has been given to USOE staff about possible changes to the Website. Staff will move forward with some changes.
- An update was received on the Board's social media strategy/plan. The number of partnerships within the community will be increased, and invitations will be extended to the Board's partners to contribute to the public education blog.
- Consideration is being given to inviting computer science teachers to have their classes develop an App for the State Board.

Executive Session

Motion was made by Member Debra Roberts and seconded by Member David Crandall that the Board move into Executive Session for the purpose of discussing the character, professional competence, or physical or mental health of an individual, or other items as outlined in Utah Code 52-4-205. The Board was polled, and upon unanimous consent of those present, moved into Executive Session at 4:00 p.m.

Motion was made by Member Tami Pyfer and seconded by Member David Thomas that the Board reconvene into open meeting. Motion carried; Members Buswell, Cannon, Castle absent. The meeting reconvened at 4:30 p.m.

Executive Session Action Items

Utah Professional Practices Advisory Commission Recommendations

Motion was made by Member Carol Murphy and seconded by Member Michael Jensen that the Board reject the recommendation of the Utah Professional Practices Advisory Commission in Case No. 06-772, and not reinstate the license of a former educator in Alpine School District. Motion carried; Members Buswell, Cannon, Castle absent.

Motion was made by Member Carol Murphy and seconded by Member Mark Openshaw that the Board accept the recommendation of the Utah Professional Practices Advisory Commission in Case No. 11-999 to accept a stipulated agreement, including conditions of the agreement, whereby a former educator in San Juan District voluntarily surrenders his educator license in lieu of a hearing for the purposes of suspension of his license from the date of formal action by the State Board of Education. Motion carried; Members Buswell, Cannon, Castle absent.

Motion was made by Member Carol Murphy and seconded by Member Michael Jensen that the Board accept the recommendation of the Utah Professional Practices Advisory Commission in Case 11-1016 to accept a stipulated agreement, including conditions of the agreement, whereby an educator in Uintah School District voluntarily surrenders his educator license in lieu of a hearing for purposes of suspension of his license from the date of formal action by the State Board of Education. Motion carried; Members Buswell, Cannon, Castle absent.

[For complete details, see General Exhibit No. 11649.]

Utah Schools for the Deaf and the Blind (USDB) Advisory Council Appointments

Motion was made by Member Tami Pyfer and seconded by Member Debra Roberts that the Board appoint Tony Jepson (representing Adult Blind) and Anne Gallegos Harvey (representing Deafblind Individual or Parent of a Deafblind Individual) to fill vacancies on the USDB Advisory Council for terms expiring June 30, 2012. Motion carried; Members Buswell, Cannon, Castle absent.

General Consent Calendar

Motion was made by Member Kim Burningham and seconded by Member David Crandall that the Board approve the General Consent Calendar with an amendment to item N to read, "It is recommended the Board grant a letter of authorization. . ."

Motion carried; Members Buswell, Cannon, Castle absent.

1. Minutes

Minutes of the meeting of the Utah State Board of Education held August 5, 2011 were approved.

2. Contracts

The following contracts were approved by the Board:

- A. ACT, Inc., \$875,000, 9/1/2011 to 8/31/2012, Amendment

To carry out the mandate in H.B. 166 (2010) to administer for two years the ACT, a national college admission examination that consists of subject area tests in English, Mathematics, Reading, and Science. [For complete details, see General Exhibit No. 11650.]

3. Material Developed with State Public Education Funds R277-115

In its August 5, 2011 meeting, the State Board repealed R277-115 *Copyrighting Material Developed with Funds that Flow Through the Board*, and reenacted R277-115 *Material Developed with State Education Funds* on second reading. The new language simplifies procedures and changes. The Board approved the repeal of R277-115 *Copyrighting Material Developed with State Public Education Funds* and reenactment as R277-115 *Material Developed with State Public Education Funds* on third and final reading. [For complete details, see General Exhibit No. 11651.]

4. Pupil Accounting R277-419

In its August 5, 2011 meeting the State Board approved R277-419 on second reading. The rule had been revised to reflect changes in the definition of graduation rates. The Board approved R277-419 *Pupil Accounting* on third and final reading. [For complete details, see General Exhibit No. 11652.]

5. Public School Student Confidentiality R277-487

In its August 5, 2011 meeting the State Board approved R277-487 on second reading. The rule provides standards and procedures related to public school student confidentiality consistent with state law. The Board approved R277-487 *Public School Student Confidentiality* on third and final reading. [For complete details, see General Exhibit No. 11653.]

6. Public Educator Evaluation Requirements (PEER) R277-531

In its August 5, 2011 meeting the State Board approved R277-531 on second reading. Amendments included the addition of required Board-directed expectations and additional LEA-determined components focused on improving instruction and

student achievement. The Board approved R277-531 *Public Educator Evaluation Requirements (PEER)* on third and final reading. [For complete details, see General Exhibit No. 11654.]

7. Autism Awareness Restricted Account Distribution R277-603

In its August 5, 2011 meeting the State Board approved R277-603 on second reading. The rule establishes a grant application process to direct funds from the Autism Awareness Restricted Account to eligible organizations. The Board approved R277-603 *Autism Awareness Restricted Account Distribution* on third and final reading. [For complete details, see General Exhibit No. 11655.]

8. Released-Time Classes R277-610

In its August 5, 2011 meeting the State Board approved R277-610 on second reading. The amended rule removes religious instruction as a qualification for released time and adds additional conditions for religious released-time programs. The Board approved R277-610 *Released-Time Classes* on third and final reading. [For complete details, see General Exhibit No. 11656.]

9. Athletes and Students with Head Injuries R277-614

In its August 5, 2011 meeting the State Board approved R277-614 on second reading. The rule includes guidelines for local education agencies for implementation of the provisions of H.B. 204 *Protection of Athletes with Head Injuries*, passed in the 2011 Legislative Session. The Board approved R277-614 *Athletes and Students with Head Injuries* on third and final reading. [For complete details, see General Exhibit No. 11657.]

10. Robert C. Byrd Honors Scholarship Program (Repeal) R277-701

Program funding for the Robert C. Byrd Honors Scholarship has been discontinued, therefore R277 is no longer necessary. The Board repealed R277-701 *Robert C. Byrd Honors Scholarship Program*. [For complete details, see General Exhibit No. 11658.]

11. Statewide Public Education Online Program R277-726

On June 27, 2011, the Board approved R277-726 *Public Education Online Program* under the 120-day (Emergency Rule) provision so that standards and procedures for implementation of the Online Program would be in place by July 1, 2011. The emergency rule will expire on October 28, 2011.

To continue with an effective rule, in its August 5, 2011 meeting the State Board approved R277-726 on second reading. The Board approved R277-726 *Statewide*

Public Education Online Program on third and final reading. [For complete details, see General Exhibit No. 11659.]

12. Driver Education Programs for Utah Schools R277-746

In its August 5, 2011 meeting the State Board approved R277-746 on second reading. The rule was amended to make it consistent with the Driver Education manual revision date. The Board approved R277-746 *Driver Education Programs for Utah Schools* on third and final reading. [For complete details, see General Exhibit No. 11660.]

13. Private School Student Driver Education (Repeal) R277-747

In its August 5, 2011 meeting the State Board repealed R277-747 on second reading, as it is no longer necessary. The Board repealed R277-747 *Private School Student Driver Education* on third and final reading. [For complete details, see General Exhibit No. 11661.]

14. Ogden District Superintendent Authorization

The Board of Education of the Ogden City School District requested a letter of authorization for Brad C. Smith in accordance with Utah Code Annotated 53A-3-301(5)(b). The Board granted the letter of authorization subject to completion of a fingerprint background check, and review if necessary. [For complete details, see General Exhibit No. 11662.]

15. National Association of State Boards of Education (NASBE) Proposed Changes to the Public Education Positions and Bylaws

The NASBE state delegate assembly will meet in October during the business meeting at the NASBE Annual Conference to vote on proposed bylaws changes and public education positions. The Board approved the proposed changes to the NASBE Bylaws and Public Education Positions. [For complete details, see General Exhibit No. 11663.]

16. Notice of Vacancy - Division of Services to the Deaf and Hard of Hearing Advisory Council

Due to a resignation, there is one vacancy on the Utah State Office of Rehabilitation, Division of Services to the Deaf and Hard of Hearing Advisory Council. This vacancy is for a consumer representative, term to expire June 30, 2014.

17. Notice of Vacancy - State Rehabilitation Council

Due to a resignation there is one vacancy on the State Rehabilitation Council for a Business, Labor, and Industry representative, term to expire September 30, 2014.

18. Notice of Vacancy - Utah Statewide Independent Living Council

Seven vacancies will occur on the Utah Statewide Independent Living Council due to the expiration of terms on September 30, 2011. All vacancies are for consumer representatives, terms to expire September 30, 2014.

19. Notice of Vacancy, Utah Schools for the Deaf and the Blind Advisory Council

The Utah Schools for the Deaf and the Blind Advisory Council has one vacancy for a local education administrator representative.

20. List of Educator Licenses Processed

A summary of the total number of educator licenses and license areas processed between 8/1/2011 and 8/31/1011 was approved. [For complete details, see General Exhibit No. 11664.]

21. Monthly Budget Report

The Monthly Budget Report was provided to give information to the Board in meeting its fiduciary responsibilities toward the Utah State Office of Education, the Utah State Office of Rehabilitation and the Utah Schools for the Deaf and the Blind. [For complete details, see General Exhibit No. 11665.]

21. Claims Report

The Claims Reports in the amount of \$220,552,184.89 for July 2011 was approved by the Board. [For complete details, see General Exhibit No. 11666.]

Motion was made by Member Joel Coleman and seconded by Member Michael Jensen that the meeting adjourn. The meeting adjourned at 4:38 p.m.

Lorraine Austin, Secretary to the Board
Minutes approved October 7, 2011