

## MINUTES

January 12, 2005

Minutes of the meeting of the State Board of Education held January 12, 2005, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 8:05 a.m. Chairman Kim R. Burningham presided.

Members present were:

Chairman Kim R. Burningham  
Vice Chairman, Janet A. Cannon  
Member Tim Beagley  
Member Bonnie Jean Beesley  
Member Laurel Brown  
Member Mark Cluff  
Member Bill Colbert  
Member Edward A. Dalton  
Member Thomas Gregory  
Member Greg W. Haws  
Member John C. Pingree  
Member Debra G. Roberts  
Member Richard Sadler  
Member Gary C. Swensen  
Member Teresa L. Theurer

Members Dixie L. Allen and Sara V. Sinclair were excused.

Also present were:

Executive Officer Patti Harrington  
Associate Superintendent Christine Kearn  
Associate Superintendent Patrick Ogden  
Associate Superintendent Raymond Timothy  
Executive Director, USOR, Blaine Petersen  
Public Affairs Director Mark Peterson  
Board Secretary Twila B. Affleck

Members of the Press:

Tanna Barry, Standard Examiner  
Jennifer Toomer-Cook, Deseret Morning News  
Ronnie Lynn, Salt Lake Tribune  
Julian Hatch, Utah Atheists  
Chris Allen, Society of Separationists  
Stephen Clark, Americans United for Separation of Church and State  
Diane B. Ogborn, Citizen  
Ronda Rose, Utah PTA  
Tim Cosgrove, Utah State Representative, District 44  
Marilyn Kofford, Utah PTA  
Sue Carey, Utah PTA  
Martine Smith, Citizen  
Marilyn Williams, Jordan School District

Phillip Jeffery, Governor's Office of Planning and Budget  
JoAnn Neilson, Utah PTA  
Tom Guffey, Renaissance Learning, Inc.

Board Member Laurel O. Brown lead the Board in the Pledge of Allegiance.

Board Member Teresa L. Theurer offered the reverence.

Board Secretary Twila B. Affleck recorded the minutes.

Chairman Burningham excused Board Members Dixie Allen and Sara Sinclair.

Chairman Burningham presented information on how the board can work together. He stated that this is one of the most important things we can do, and he is dedicated to the belief that good people working together in good way will result in good. He then presented the analogy of a Laser vs Light Bulb and the effectiveness of the board. (For complete details, see General Exhibit No. 9484.)

### Installation of New Board Members

Chairman Burningham shared a little background information on each of the members being sworn in.

Chairman Kim R. Burningham issued the Oath of Office to the newly elected and re-elected Board Members: Janet A. Cannon, Mark Cluff, Bill Colbert, Thomas Gregory, John C. Pingree, Richard Sadler and Teresa L. Theurer.

The Board recessed to committee meetings at 8:30 a.m.

The Board reconvened at 10:30 a.m.

Chairman Burningham noted that we opened the meeting earlier with the swearing in of new board members.

Chairman Burningham reported that at the last two board meetings the Utah Atheists have had an opportunity to comment on our reverence/prayer issue. He indicated that later today he will pass out a first draft of a Board policy on this issue. Chairman Burningham noted that Julian Hatch the head of the Utah Atheists organization is with us today and he has a handout which will be distributed with the draft policy. Chairman Burningham indicated that at the next board meeting we will have a discussion of the issue.

### Student Achievement

Dr. Harrington reported that there are ongoing measures of achievement. Students have taken the UBSCT test for the second time for real, and graduation is dependent upon that.

Chris Kearl, Associate Superintendent shared what has been happening with regard to student assessment. She indicated that the NRT information will be distributed later in the meeting. She reported that Utah third, fifth, eighth and eleventh graders took the Iowa Tests for the first time in the fall of 2004 and they performed well. Utah third graders had a composite score of 65 (the national average is 50 in the Iowa Tests); fifth graders scored 64; eighth

graders 58; and eleventh graders 61. The Iowa Tests replaced the Stanford Achievement Test as the state's main norm-referenced test in 2004.

Ms. Kearn reported that Utah high school sophomores who had not passed the Utah Basic Skills Competency Test (UBSCT) in February 2004 retook the test as juniors last October. The UBSCT has three subtests: reading, math and writing. Of those who had formerly failed the reading test, 56% passed in October. Of those who had formerly failed the math test, 33% passed in October. Of those who had formerly failed the writing test, 54% passed in October. The total passing rate is 90% in reading, 75% in math, and 83% in writing.

(For complete details of the report, see General Exhibit No. 9485.)

### Boardsmanship Development

Board Member Gary Swensen presented information to the Board relative to how the meeting agendas can affect board policy. He indicated that the agenda is a map or compass to keep a group on target. The National Association of State Board of Education has provided some help in defining an agenda. Ideally state board agendas should focus on strategic planning, board development, policy development, administration of programs, and recognition of achievements. Also in developing agenda the leadership and administrative officer should screen issues for their relevancy to put on the agenda. Topics should be determined by strategic priorities, state or federal legislative action, predetermined policy cycles. The role of leadership in conducting the meeting has a certain responsibility to protect and charter the use of the board's time, keep them on target, and to be sure the things discussed are timely and stay within time limits so all items can be covered.

The responsibility of board members as it pertains to the agenda is to know what is in the agenda before we get to the meeting. We represent many public's and to serve them we should come competent and adequately prepared as to what is in the agenda. If we have particular questions in the agenda we should call the superintendent or chair to have them help us understand some of the issues rather than taking time during board meeting. He indicated that board members should be regular attenders at the meetings.

Chairman Burningham noted that in future agendas will have a new division at the top which will lead us to how the specific items leads us to a board goal.

### Expert Review of the Fawson/Herzberg

#### Tuition Tax Credit Study Report

Last month, members of the education community asked USOE to convene a panel of experts to examine the research behind the recent tuition tax credit study commissioned by the Legislature. Associate Superintendent Patrick Ogden presented the panel's findings to the Board. (For complete details, see General Exhibit No. 9486.)

### Personal Privilege Laurel Brown

Member Laurel Brown introduced Representative Tim Cosgrove from her area. Mr. Cosgrove stated that he

is a newly elected representative in the Murray and Midvale area. He was formerly on the Board of Directors for the State PTA. He supports the public schools and expressed appreciation for the work of the Board and encouraged them to keep working to share the value of public education.

Expert Review of the Fawson/Herzberg  
Tuition Tax Credit Study Report Cont.

Mr. Ogden noted that he had sent the findings to Fawson and Herzberg and told them if they would like to respond he would attach their response to these findings and make sure the Board received them as well.

Mr. Ogden reported that staff has put together an economic analysis of the current proposed legislation. The first year it will save the state \$2 million, every year after than it will cost the state \$12 million and every year after that more.

State Board of Education Legislative  
Priorities and Talking Points

The Board has prepared its proposed budget for the 2005 Legislative session. The budget spells out some priorities of the Board. There may be other matters that are also of high priority. Common talking points may assist board members in their contacts with members of the Legislature. (For complete details, see General Exhibit No. 9487.)

Chairman Burningham reviewed the priorities and talking points recommended by leadership.

Member Teresa Theurer indicated she would like to see the increase in the WPU be first to show support of teachers. Member Mark Cluff agreed.

Member Cluff commented that as he has talked with legislators they have indicated they are tired of hearing there needs to be more money. He suggested that we need to show what we are doing, and then ask for money to help us accomplish our objectives.

It was noted that with the re-authorization of IDEA we may be able to reduce the request for low incident/high cost students to \$1.3 million .

Motion was made by Member Teresa L. Theurer and seconded by Member Richard Sadler to accept the priorities and talking points, but putting WPU first followed by Growth and to acknowledge further investigation on the dollar figures for the last two items, Funding remediation for Utah Basic Skills Competency Test and the Low Incident/High Cost Students.

Vice Chairman Janet Cannon requested that when this is finalized she would like it emailed so she can communicate the information to her legislators.

Tim Beagley spoke against the motion indicating he did not feel it to be a good idea to prioritize but rather just present the entire budget, the whole package is important.

Motion carried with Members Cannon, Cluff, Colbert, Dalton, Gregory, Haws, Roberts, Sadler and Theurer

voting in favor; Members Beagley, Brown, Pingree and Swensen opposed.

Utah Performance Assessment System  
for Schools (U-PASS) Identification Plan

The U-PASS identification plan was presented to the Board in its December meeting. Since then, the plan has been widely disseminated to many groups, including Utah superintendents and the Coalition of Minorities Advisory Committee (CMAC). Feedback from the Utah superintendents and from CMAC might suggest two changes in the plan.

The two suggested changes were presented to the Board. (For complete details, see General Exhibit No. 9488.) Grades 3-8 Overall Status and Overall Progress. Original: 30% language arts, 30% math, 30% science, 10% attendance. Final Plan: 35% language arts, 35% math, 20% science, 10% attendance. Also the document has been professionally edited (minor word and grammar changes).

Motion was made by Member Bill Colbert and seconded by Member Tim Beagley to adopt the U-PASS Identification Plan with the above noted amendments.

Vice Chairman Janet Cannon voiced concern with the English Language Learners portion that it needed to be revised, if possible, to add additional language to clarify what is really being communicated.

Motion carried unanimously.

It was noted that input received from the Coalition of Minorities Advisory Committee and District Superintendent indicate that there needs to be more attention given to desegregation and sub groups. Ms. Park indicated that in contemplating giving more attention to that issue she requested permission from the Board to pursue.

Motion was made by Vice Chairman Janet A. Cannon and seconded by Member Debra Roberts to authorize staff to pursue development of a system that would allow for a better accountability system for sub groups and desegregation, at which time it is developed it should come back to the Board for inclusion in U-PASS. Motion carried unanimously.

Public Participation/Comment

Diane Ogborn as a concerned parent relative to blood drives in Utah public high schools. (For complete details, see General Exhibit No. 9489.)

Executive Session

Motion was made by Member Richard Sadler and seconded by Member Mark Cluff that the Board move into an Executive Session following lunch to discuss personnel issues. The Board was polled and by unanimous consent of those present the Board moved into an executive session at 12:55 p.m.

Motion was made by Member Gary C. Swensen and seconded by Member Debra G. Roberts to reconvene into open meeting. The Board reconvened at 1:40 p.m.

Chairman Burningham noted that in the past we have held additional meetings during the legislative session. One additional meeting is scheduled for February 18. It may be necessary to have another meeting, but that will be up to the Law and Policy Committee on an as need basis. When these meetings are held we need at least ten people present. He indicated that it was most important for Board Members to develop relationships with legislators in their area.

### **Utah Professional Practices Advisory Commission Recommendations**

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to adopt the Commission's recommendation and revoke the educator license in Case No. 04-697, based upon default, of a former educator in the Jordan School District. The action is taken because of the educator's solicitation via Internet of an undercover policy officer posing as a 13 year-old female. Despite at least two attempts to contact by mail, the educator has not gotten in touch with the office since an initial conversation in September, 2004. Motion carried unanimously.

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to adopt the Commission's recommendation and revoke the educator license in Case No. 04-705, based upon default, of a former educator in the Alpine School District. This action is taken because of the educator's failure to follow district procedures for receipt of petty cash, purchasing requirements, and accounting practices. Her failure to follow outlined procedures resulted in significant amounts of mission money from the school. The educator has not responded to repeated telephone calls, the complaint, or notice of default. Motion carried unanimously.

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to adopt the Commission's recommendation and revoke the educator license in Case No. 04-695, based upon default, of a former educator at Freedom Academy Charter School. This action is taken due to the educator's significant access of Internet pornography through his school computer. It is uncertain if students were exposed to the pornography or present at the time of access. The educator requested a stipulated agreement, but changed the agreement unacceptably and has failed to respond from his current location in Oregon. Motion carried unanimously.

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to adopt the Commissions' and Hearing Panels' recommendation in Case No. 95-372, for reinstatement of the license of a former teacher in the Granite School District. The educators' license was previously revoked as a result of his sexual harassment and inappropriate conduct towards female students. The license was revoked in 1996. It was noted that the hearing report was reviewed by the Board. Motion carried unanimously.

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to adopt the Commissions' and Hearing Panels' recommendation in Case No. 03-636, for reinstatement of the license of a former teacher in the Provo School District. The educator's license was previously suspended as a result of his guilty

plea to two class B misdemeanor theft charges. It was noted that the hearing report was reviewed by the Board. Motion carried unanimously.

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to adopt the Commission's recommendation in Case No. 04-708 and accept a stipulated agreement, including conditions of the agreement, whereby a former educator in the Davis School District voluntarily surrenders his educator license in lieu of a hearing for the purpose of suspension of his license for two (2) years from the date of formal action by the State Board of Education. This action is taken because the educator failed to properly account for library-related funds, and commingled library funds with his own money. Motion carried unanimously.

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon to adopt the Commission's recommendation and accept a stipulated agreement in Case No. 04-713, including conditions of the agreement, whereby a former educator in the Tooele School District, voluntarily surrenders his educator license in lieu of a hearing for purposes of revocation of his license for five (5) years from the date of formal action by the State Board of Education. This action is taken because the educator used a personal laptop computer at school to request objectionable materials. Motion carried unanimously.

(For complete details of the Professional Practices Commission Recommendations see General Exhibit No. 9490.)

#### **Utah Instructional Materials Commission**

Motion was made by Member Greg W. Haws and seconded by Member Richard Sadler to appoint Madaline Chilcutt to the Utah Instructional Materials Commission representing Elementary School Teachers. Terms to expire 9/30/08.

#### **Disability Determination Advisory Council**

To appoint Yolanda Kunder to the Disability Determination Advisory Council representing Advocation/Parent of a child with a disability.

#### **Deaf and Hard of Hearing Advisory Council**

To appoint Diane Driggs to the Deaf and Hard of Hearing Advisory Council representing Part of a child who is deaf. Term to expire 6/30/06.

Motion carried unanimously.

#### **American Achievement Academy Charter Amendment**

American Achievement Academy (AAA) was granted a charter by the Board in December 2004 Board meeting. Their original application for a K-12 school was restricted to a K-9 recommendation because of concerns the State Charter School Board (SCSB) had with the application at the 10-12 grade level. AAA has since addressed those concerns. They presented clarifying information at the SCSB meeting on December 16 and requested an amendment to

the charter. The SCSB accepted the changes and approved the request for amendment to add grades 10-12 to the charter. (For complete details, see General Exhibit No. 9491.)

Brian Allen, President of the Charter School Board presented the recommendation from the State Charter School Board that the Board accept the changes and approve the request for amendment to add grades 10-12 to the American Achievement Academy Charter School.

Motion was made by Member Debra G. Roberts and seconded by Member Mark Cluff to approve the American Achievement Academy Charter Amendment to include K-12. Motion carried with Members Beagley, Brown, Cannon, Cluff, Colbert, Dalton, Gregory, Haws, Roberts, Sadler, Swensen and Theurer voting in favor; Member Pingree absent.

#### Follow-up Public Participation Comment

Superintendent Harrington reported that the office was made aware of the American Red Cross blood drive issue in November. She noted that we have not used the Red Cross in our curriculum or otherwise. The Red Cross contacts the schools individually for their blood drives. It was our feeling to leave it to the local district, and we did not feel it our purview to tell the Red Cross what they can ask.

Member Bill Colbert suggested that there needs to be a way to get information to the parents early in the school year relative to the questionnaire and the interview process by the American Red Cross.

Associate Superintendent Chris Kearn indicated she had talked with Ms Woolf of the American Red Cross and suggested they think about a process or approach where they are working cooperative with school districts and visit with the superintendent so they know the content of the questionnaire and feel comfortable with how the information is getting to the parents.

Motion was made by Member Teresa Theurer and seconded by Member Bill Colbert that the Board ask Carol Lear to pursue this comparing our rules with what is going on. The Board currently has a form that is sent home with the students for signature by parents. This form could include the information about the Red Cross Blood Donor packet. Further, we need to make sure we are not in violation of a current rule. Also, suggested the possibly for a procedure of early or advanced notice.

Member Richard Sadler offered an amendment to the motion that the superintendent use her staff to review this issue, and to send a letter to the concerned parent.

Amendment was accepted by Members Theurer and Colbert.

Motion as amended carried unanimously.

#### Board Standing Committee Reports

##### **Curriculum Committee**

Member Teresa Theurer, Chairman of the Curriculum Committee presented the following recommendations

from the Committee:

### Secondary Physical Education Core Curriculum

The Secondary Physical Education Core Curriculum was revised through a process that occurred over the past two years. The document is now ready to be submitted for public hearings to solicit comment that addresses the content and intent of the curriculum. The Secondary Physical Education Core Curriculum was developed under the direction of a steering committee, an advisory committee, and subject-level writing committees. These committees consisted of physical education teachers, parents, district physical education and curriculum coordinators, and university physical education educators. The Secondary Physical Education Core Curriculum standards, objectives, and indicators provide a comprehensive guide to teachers, students, parents, administrators, and the public and identify the essential physical education concepts students need to master.

Major changes between the new Secondary Physical Education Core Curriculum and the previous curriculum include:

- The flexibility for districts to determine in which years they offer Core courses.
- The inclusion of suggestions for academic service learning in physical education.
- An emphasis on the importance of proper nutrition as well as activity in developing habits for a life-long healthy lifestyle.
- A clear connection between the high school curriculum and opportunities for fitness and activity in local communities.

(For complete details of the Secondary Physical Education Core Curriculum see General Exhibit No. 9492.)

The Committee discussed the importance of Physical Education in a child's learning experience. They will discuss the possibility of a resolution or something that will help encourage schools to not to drop PE.

Another concern is the teacher preparation in physical education for elementary teachers.

Motion from the Committee that the Board authorize the Curriculum Section to provide public hearings on the Secondary Physical Education Core Curriculum. Following review and comment in public hearings, the new Secondary Physical Education Core Curriculum will be presented to the Board in March for approval. Motion carried unanimously.

### Accreditation of Schools

The Utah State Accreditation Committee has reviewed the Annual Northwest Association of Accredited Schools (Northwest) Report and determined an accreditation status. The accreditation process provides an important vehicle for school accountability regarding student achievement, compliance with state rules and regulations, regional standards, and school-wide improvement. Utah public high schools are required to be accredited by Northwest (R277-413). The recommendations of the Utah State Accreditation Committee and Northwest reflect the status of schools with respect to the state standards and to Northwest standards. (For complete details of the list of Utah state accredited schools see General Exhibit No. 9493.)

The Committee reviewed and approved the list of Utah state accredited schools and recommendations of the Utah State Accreditation Committee and the Northwest Association of Accredited Schools regarding the accreditation status of Northwest schools and moves that the Board approve the recommendations of the Utah State Accreditation Committee and the Northwest Association of Accredited Schools. Motion carried unanimously.

It was noted that the status of Utah schools will be released to the public. It is anticipated that schools not meeting the standards will make appropriate changes in order to fulfill the standards in which they are deficient prior to their next accreditation report and review.

#### Accreditation of Schools, R277-410

In the past there has been confusion as to which schools must be accredited and which schools do not. Utah schools offering credits toward high school graduation and/or diplomas, as required by law, are accredited by the Northwest Association of Accredited Schools and the Utah State Office of Education as their agent. The proposed changes to R277-410, Accreditation of Schools, by clarifying definitions and policy bring the rule into compliance with current Utah State Office of Education accreditation practice and policy. (For complete details of the rule, see General Exhibit No. 9494.)

The Committee approved the amendments to R277-410, Accreditation of Schools, on first reading and moves that the Board approve the amendments to the rule on second reading. Motion carried unanimously.

#### Elementary School Accreditation, R277-411

The Utah State Office of Education has neither the capacity nor the funding to accredit elementary schools. The proposed changes to R277-411, Elementary School Accreditation, bring the rule into compliance with current Utah State Office of Education accreditation practice and policy. (For complete details, see General Exhibit No. 9495.)

The Committee added and E under R277-that the accreditation status and date be available from USOE upon request.

The Committee approved the amendments to R277-411, Elementary School Accreditation on first reading and moves that the State Board of Education approve the amendments to the rule on second reading. Motion carried with Members Beagley, Cannon, Cluff, Colbert, Dalton, Gregory, Haws, Pingree, Roberts, Sadler, Swensen and Theurer voting in favor; Member Brown opposed.

#### Middle School Accreditation, R277-412

The proposed changes to R277-412, Middle School Accreditation, clarifies the definition of “middle school” and the accreditation of middle level schools, bringing the rule into compliance with current Utah State Office of Education accreditation practices and policy. (For complete details, see General Exhibit No.9496.)

The Committee approved the amendments to R277-412, Middle School Accreditation on first reading and moves that the State Board of Education approve the amendments to the rule on second reading. Motion carried

unanimously.

### Accreditation of Secondary Schools, R277-413

Utah schools offering credits toward high school graduation and/or diplomas, as required by law, are accredited by the Northwest Association of Accredited Schools and the Utah State Office of Education as their agent. In the past there has been confusion as to which schools must be accredited and which schools do not. The proposed changes to R277-413, Accreditation of Secondary Schools, clarify definitions, outline accreditation protocol and standards, and bring the rule into compliance with current Utah State Office of Education accreditation practice and policy. (For complete details, see General Exhibit No. 9497.)

The Committee approved the amendments to R277-413, Accreditation of Secondary Schools on first reading and moves that the Board approve the amendments on second reading. Motion carried unanimously.

### **Law and Policy Committee**

Member Debra G. Roberts, Chairman of the Law and Policy Committee presented the following recommendations from the Committee:

#### Charter School Agreements

Charter School governance legislation 53A-1a-501.8 states that “The State Board of Education shall dissolve each charter or charter agreement it has with a charter school, and the State Charter School Board shall enter into a charter agreement with each of those schools.”

The State Charter School Board is in the process of reviewing each State Board Charter. After careful review of each charter, they will make recommendation to the State School Board for charter approval.

In the November 2004 meeting, the State Charter Board reviewed the DaVinci Academy charter and voted to enter into a charter agreement with them. In the December 2004 meeting, the State Charter Board reviewed the Thomas Edison charter and the Ogden Preparatory Academy charter and voted to enter into a charter agreement with them.

The Committee reviewed the recommendation of the State Charter School Board to dissolve the existing charter agreements with DaVinci Academy, Thomas Edison Charter School and Ogden Preparatory Academy and moves that the Board support the charter agreement between the State Charter Board and these schools. Motion carried unanimously.

#### University of Utah Teacher Education Program Review

The program approval process is an essential step to ensure university/college educator preparation programs meeting state preparation program standards. Program reviews are conducted every five years. The process includes an institution self-study and a specialty area review team assessment of the institution’s practices with national and state standards. The report contains commendations, recommendations, and suggestions to which a

response from the institution is required within one year. The University of Utah completed the Self-Study Report and the specialty area review team completed the Report. The majority of the program areas were approved by the Board in the October 2004 Board Meeting. The Report for Special Education, Communication Education, and School Psychology have now been completed. The University will now prepare a response to the review within a reasonable period of time but not to exceed one year from the date of the Board approval. (For complete details of the review, see General Exhibit No. 9498.)

The Committee reviewed the University of Utah Teacher Education Program Review and moves that the State Board approve the University of Utah Teacher Education Program. Motion carried unanimously.

Review of Proposed Legislation and  
Recommendation

Proposed legislation was reviewed by the Committee. (For complete details of the tracking sheet, see General Exhibit No. 9499.)

Ray Timothy reviewed the Office of Education web page and how board members can access the legislative calendar. He noted that committee meetings will not be held on specific days of the week as has been the practice in the past, but will be held at the call of the Speaker and President. He further noted that Legislative Research had indicated that next weeks schedule would be posted by Wednesday.

The following recommendations were made by the Committee:

**HJR3, Resolution Regarding Federal No Child Left Behind**

Motion from the Law and Policy Committee that the Board support to HJR3. Motion carried unanimously.

**HB 175 - Education Achievement Gap Task Force**

Motion from the Law and Policy Committee that the Board take the position of unnecessary. Motion carried unanimously.

**HB 169, Appropriation for School Districts Impacted by Fee Waivers; and**

**HB 183, Verification of Eligibility for Fee Waivers**

The Committee handled both bills together. Motion from committee to support both pieces of legislation.

Member Richard Sadler requested that the motion be divided.

Motion to support HB 169, Appropriation for School Districts Impacted by Fee Waivers.

Substitute motion was made by Member Teresa L. Theurer and seconded by Member Tim Beagley to support the concept and identify the funding as well as to see what position the other education organizations take, especially the superintendents.

Substitute motion carried with Members Beagley, Brown, Cannon, Cluff, Dalton, Gregory, Haws, Roberts, Swensen and Theurer in favor; Members Colbert, Pingree and Sadler opposed.

Motion from the committee to support HB 183, Verification of Eligibility for Fee Waivers.

Member Greg Haws commented that this legislation is unnecessary. There is no evidence that this is a problem.

Substitute Motion was made by Member Greg W. Haws seconded by Member Teresa L. Theurer to take the position of unnecessary. Motion carried with Members Beagley, Brown, Cluff, Colbert, Dalton, Gregory, Haws, Pingree, Roberts, Sadler, Swensen, and Theurer voting in favor; Member Cannon opposed.

### **HB 36, Charter School Construction Amendments**

The Committee supported this, however, since that time additional information has been obtained. Associate Superintendent Ray Timothy reported that there is concern with charter schools and how they are obtaining facilities and should owners receive exemptions of local building codes and requirements for buildings that are built and then leased for profit.

A Substitute Motion was made by Member Debra G. Roberts and seconded by Vice Chairman Janet A. Cannon to take a position of hold for further study with comment. Motion carried unanimously.

### **HB 43, School Land Trust Program Funding Amendments**

Motion from the committee that the Board support HB 43, School Land Trust Program Funding Amendments. Motion carried unanimously.

### **HB 39, Tuition Tax Credit**

Member Roberts reported that there was a split vote in the committee on this proposed legislation. She further reported that the discussion and action is on the bill currently before us. There have been comments made that it may change, but we are only dealing with what is before us.

Motion was made by Member John C. Pingree and seconded by Member Teresa L. Theurer that the Board oppose this legislation for the following reason: He indicated that the Board had been given a draft Information Document dated 11 January 2005, entitled: "Tuition Tax Credits (TTCs) and Your Neighborhood Public Schools: What Utahns Should Know." This document goes through the issues of tuition tax credits and what it will do to public schools. Further, that the Board approve the draft statement.

(For complete details of the draft statement, see General Exhibit No. 9500.)

Member Pingree indicated he would like the draft document approved because he has been asked to go represent the Board in a debate with Representative Ferrin tomorrow on *Take 2*. He would like to know the position of the Board with regard to tuition tax credits and this bill prior to that time so he can accurately represent the board.

Member Mark Cluff requested the motion be divided.

Motion to oppose HB 39, Tuition Tax Credits carried with Members Beagley, Brown, Cannon, Dalton, Haws, Pingree, Roberts, Sadler, and Theurer voting in favor; Members Cluff, Colbert and Gregory opposed; Member

Swensen absent.

Motion to support the draft statement.

Member Bill Colbert commented that with the growth we are expecting we need to look at a serious alternatives to try to find ways of reducing this growth in the schools with tax alternatives or other means to provide parents choice. He indicated that tax credits and vouchers have demonstrated themselves in other states successfully. He indicated that low income families have no choice without this.

Member Mark Cluff commented he is in support of tuition tax credits because competition is a vehicle for improvement. We have a wonderful public education system, however he has heard enough from parents that they have concerns that they would like some options, be it charter or tuition tax credits or charter schools. There is enough to enable parents to make choices. He feels this will help improve public education system and it will make us look at our schools to see why students want to leave. He indicated that he could not support the legislation as it was written last year, but supports the concept, as written, this year.

Member Thomas Gregory commented that the legislation as written this year indicates that the tax credit will be received by only those with free and reduced lunch, requires accountability, it requires that all teacher credentials be made public, it also prevents double deductions on both the state and federal tax levels.

Member Gregory further commented that the draft statement references the Utah State Constitution. This has been objected by the proponents of the legislation. He asked the opinion of Carol Lear relative to this argument. Ms. Lear responded that her opinion is that it will be litigated. This same issue has been litigated in other states relative to tuition tax credit.

Member Tim Beagley commented that there are two fallacies with this legislation. One that competition will help schools. This does not represent competition because in private schools have no accountability and our public schools are tied from many angles. Secondly, he worries about what is left behind when all of our active parents take their children to another place. He was uncomfortable with the statement because he has just received it and had not had time to study it.

Member Teresa Theurer spoke in favor of the motion because she did not see how it will help the students she represents. Tuition tax credits will not be a benefit to students in Northern Utah.

Member Thomas Gregory stated that his opposition partly derived from comments from parents in his area, but he recognizes there may be unintended negative consequences in rural areas.

Member John Pingree spoke in favor of the motion stating that this is not a matter of choice - we have it right now. This is a choice that will take public monies from the public sector and put it into the private sector. One of the basic institutions is our society is public schools and in Utah we are heavily underfunded.

Member Laurel Brown commented that in terms of a vote on the draft that the Board allow Member

Pingree to use the concepts of the draft statement and talking points but not approve the total draft.

Member Richard Sadler offered an amendment to amplify the motion that as of this day the Board support this as a DRAFT Statement of the Board as we move into the legislative session and reserve the right to continue to review this in relationship to both the legislation and draft statement. Members Pingree and Theurer accepted this modification.

Motion carried with Members Beagley, Brown, Cannon, Dalton, Haws, Pingree, Roberts, Sadler, and Theurer voting in favor; Members Cluff, Colbert and Gregory opposed; Member Swensen absent.

### **Finance Committee**

Member Tim Beagley, Chairman of the Finance Committee presented the following recommendations from the Committee:

Adopt a Response to the Legislative Report on Trends in State Employment and Executive Appropriations' Committee Request

The Utah Association of School Business Officials (UASBO) was to meet in December and make a recommendation on how to uniformly calculate full-time equivalent (FTE) employees in public education. However, UASBO did not meet to make a recommendation. Associate Superintendent Patrick Ogden presented a draft letter responding to the legislative leaders regarding this issue. (For complete details, see General Exhibit No. 9501.)

Member Beagley reported that the formula that we would propose to the legislature would include a 1.0 FTE for every 1440 hours worked. This is a typical work year for a licensed employee. There will also be an FTE definition for classified employees and that would be based on eight hour work days for the total number of work days in the period.

Motion from the Committee that the Board approve the response from the Utah State Office of Education and to forward it to the Executive Appropriations Committee with the stipulation that it is made clear that this formula is strictly for the purpose of standardizing the FTE count across districts and it does not reflect in any way the work load of the district employees and that it may or may not have a bearing on negotiations for benefits within the districts.

Member Bill Colbert questioned the last sentence of the paragraph beginning with Licensed employees teaching additional periods over the district/charter standard or teaching a full year in a year round school can may exceed a 1.0 FTE up to XX FTE'. He suggested that the sentence end with can may exceed a 1.0 FTE.

Amendment to the motion was made by Member Bill Colbert and seconded by Member Mark Cluff to change the paragraph as noted above.

Amendment to the motion carried unanimously.

Motion was made by Member Richard Sadler and seconded by Member Bill Colbert that it is the sense of

the board that we ask the finance people to look at this and come up with a recommendation that might give teachers latitude but might also protect what teachers do.

Member Tim Beagley spoke against the motion stating that this is strictly for standardization purposes for the state and has no bearing upon the teachers or their activity.

Members Sadler and Colbert withdrew their motion.

Motion as amended carried unanimously.

#### Approval of a Teacher Licensing Fee Plan

Last session, the Legislature passed the following intent language: *It is the intent of the Legislature that the State Board of Education submit a Teacher Licensing Fee Plan, consistent with UCA 63-38-3.2, in its FY 2006 budget request to the Governor and the Legislature that provides enough fee revenue to fund operations of the Educator Licensing Section at the State Office of Education without the use of Uniform School Funds.*” The law requires that an agency requesting a fee increase hold a public hearing and solicit feedback on the proposed increases. (For complete details, see General Exhibit No. 9502.)

Governor Walker’s FY 2006 budget recommendations include the proposed fee increase together with a reduction in ongoing state support for the licensing program. The increased fees are estimated to generate \$416,000. Governor Walker also recommended that one-time state monies be used to fund the licensing program for FY 2006. This would allow USOE to save fee collections for one year and from then on operate the program on actual collections rather than projected revenue.

The Committee accepted public testimony and there was concern that this be a disincentive for teachers. The Committee would like more time. The Finance Committee recommended that staff be directed to report to the committee next month as to why the actual cost of licensing is as high as it is. The Committee would like the fees to stay where they are, somehow over time get the costs down without raising the cost of licensing for teachers and also become more efficient with licensing procedures.

Member Beagley reported that there was a representative from fiscal analysts office in the committee and he will take that information back to the legislature.

Motion was made by Member Tim Beagley and seconded by Member Mark Cluff that the Board not raise licensing fees for teachers; and to work over time to reduce the cost of the current licensing fees. Further, that if need be, to ask for legislative help to get to that point. Motion carried unanimously.

Member Teresa Theurer noted that the Curriculum Committee had requested a calendar for accreditation site visit. She distributed the calendar of accreditation site visits from now until May 2005. (For complete details, see General Exhibit No. 9503.)

## Communications Committee

Member Edward A. Dalton, Chairman of the Communications Committee reported on the following activities of the Committee:

Reminded everyone USBA Convention this weekend. The dinner on Thursday night has been postponed until later in the year. He indicated that there is a lot of good training and networking that can be done at this convention.

The committee still has some things to do in planning for best practices award. They have given suggestions to Leadership with regard to lunch visitors.

Member Beagley also suggested we look at a project done in Colorado of a newspaper insert.

### General Consent Calendar

Motion was made by Member Tim Beagley and seconded by Vice Chairman Janet A. Cannon to approve the General Consent Calendar as presented. Motion carried unanimously.

#### 1. Minutes of Previous Meeting

Minutes of the Meetings of the State Board of Education held December 2 & 3, 2004.

#### 2. Contracts

##### A. National Center for the Improvement of Educational Assessment. \$205,231.76. 11/23/04-9/30/06 - Amend. Fed.

Amendment provides additional technical support to the USOE to assure a high quality assessment and accountability system.

##### B. Measured Progress. \$471,702. 1/1/05-6/30/06. - Amend. Fed.

Funds for this contract amendment will be used for additional development of science tests, plus the printing and distribution of test materials.

##### C. NCS Pearson, Inc. \$398,831. 1/1/05-5/7/06. - Amend. - Fed.

Amendment is to expand the scope of work to include the printing, packaging, and distribution of test materials for the language arts tests.

##### D. Utah State University. \$43,620. 10/1/04-9/30/07. - Amend. - Fed.

The Regional Assessment System (RAS) will provide the framework for consortium states to have access to a system of assessment for educational interpreters. The RAS is unique in that it does not establish "standards" but instead leaves it up to each individual state to determine their own standard for "qualified personnel."

##### E. USU Center for Persons with Disabilities. \$309,373. 12/1/04-9/30/05 - Fed.

Provide contractor with the funding needed to carry out the goals and objectives of the grant

“Improving Utah’s Drug and Violence Data Collection Tools and Procedures” which was received from the US Department of Education. This contract will allow us to adequately and consistently gather incidents of delinquent activity data which is required of each school throughout the state to submit. This requirement is part of the NCLB Title IV legislation.

F. University of Utah, Dept. Of Special Education. \$173,884. 11/3/04-9/30/08 - Fed.

Provide required evaluation services for the Utah Reading First grant.

G. Utah State Department of Health. \$70,000. 7/1/04-6/30/05 - RECEIVABLE - Fed.

To provide funding for the Youth Tobacco Survey, the Youth Risk Behavior Survey and the Prevention Needs Assessment.

(For complete details of the Contracts see General Exhibit No. 9504.)

3. Educator Licensing Requests for Temporary Authorizations

Requests for Temporary Authorizations as submitted by the School Districts were approved as submitted. (For complete details, see General Exhibit No. 9505.)

4. Secondary School Completion and Diplomas, R277-705

In October 2004, R277-473, Testing Procedures, was amended to update the rule language to be consistent with state law and new amendments. R277-705, Secondary School Completion and Diplomas, is now amended to include the same language which was amended in R277-473 in regard to providing makeup opportunities to students taking the Utah Basic Skills Competency Test (UBSCT). The Board approved the amendments on second reading at the December 2004 meeting. There have been no substantive changes since that time. The Board approved R277-705, Secondary School Completion and Diplomas on third and final reading. (For complete details, see General Exhibit No. 9506.)

5. Concurrent Enrollment of High School Students in College Courses, R277-713

The Legislative Fiscal Analyst reported that the concurrent enrollment program should provide uniformity, equity, and accountability. R277-713, Concurrent Enrollment of High school Students in College Courses, now clearly addresses all elements in 53A-17a-120 of the Utah Code sufficiently to establish consistent policy statewide. Further, the rule now addresses other areas of state law (e.g., instruction consistent with law and policy for human sexuality, faculty background checks, student privacy). The amended rule provides greater clarity and consistency with regard to application of fees and textbooks, awarding credit, funding, appropriate enrollment procedures and course offerings. The Board approved the amendments on second reading at the December 2004 meeting. There have been no substantive changes since that time. The Board approved R277-713, Concurrent Enrollment of High School Students in College Courses on third and final reading. (For complete details, see General Exhibit No. 9507.)

6. Monthly Budget Report

The Monthly Budget Report provides 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. 9508.)

7. USBE Agenda & Strategic Planning Calendar 2005

The Utah State Board of Education Agenda & Strategic Planning Calendar was provided as information. (For complete details, see General Exhibit No. 9509.)

8. List of Applicants for Licenses

The list of applicants for initial and renewal licenses was approved by the Board. (For complete details, see General Exhibit No. 9510.)

9. Claims Report

The Claims Report in the amount of \$179,516,169.11 for November 30, 2004 was approved by the Board. (For complete details, see General Exhibit No. 9511.)

Executive Officer Report

State Superintendent Patti Harrington presented the following items of information:

There will be a wireless environment on the hill and you must be registered for that. Patrick is handling that for those in our office and for board if desired.

Scott Snelson, USOE Specialist received the Arch of Fame Award from the Association of Career and Technology Education.

Dr. Harrington reported on her speaking engagements, visits to schools, and key contacts she had made. (For complete details of her report, see General Exhibit No. 9512.)

Dr. Harrington reported that we are initiating conversations about an "electronic portfolio" that students might use through the PreK-16 system. Dave Steele is taking the lead from our office.

Governor Leavitt's original math/science/technology teaching initiative is ongoing and has been moved from the Governor's office to our own office, under the direction of Ray Timothy.

The new West Building on Capitol Hill houses both the Senate and House chambers. There will be no gallery seating; however, next to each of the chambers is a room with voice and video feeds for those who want to watch the proceedings. There will also be live internet broadcasting of the proceedings. The Senate chambers are on the main level and the House chambers on the basement level of the West Building.

Board Chairman Report

Board Chairman Kim R. Burningham presented the following items of information:

The American Fork High School Band has been invited to play at the Presidential Inauguration and they are short funding. The State Office has taken up a collection. He suggested that if the Board would like to add to that support they were welcome to do so. A basket for contributions was passed around.

National Association of State Boards of Education (NASBE) - Chairman Burningham reported that Vice

Chairman Cannon will give us reports on NASBE issues each board meeting. He indicated that a number of board members will be going to Alexandria tomorrow to attend NASBE Board and Committee meetings.

Vice Chairman Janet Cannon shared a picture of Governor Walker when she visited the State Office. The picture was of Governor Walker as she received the school bell presented by the Board.

Vice Chairman Cannon reported that she had received an email from David Griffith NASBE's Governmental Affairs Specialist. The email indicated that Congress has just made assignments to committees and Senator Hatch is now sitting on the Education Committee. She indicated that one of the things she learned being a member of the Governmental Affairs Committee is that the senators and representatives self select themselves onto these committees. One of the concerns she has had is that so many of the education committees are populated by those representing eastern states. There were two out of 11 republicans who were from the west, and two out of nine democrats. Senator Hatch has been a former chair of the Health, Education and Labor Committee and now he is returning to committee. The ranking member is his good friend Ted Kennedy.

Vice Chairman Cannon indicated that she has found as she has been studying federal issues that the people who sit on those committees are the ones who make a huge difference in what happens. She stated that having Senator Hatch representing Utah there gives us a real step up for public education.

Vice Chairman Cannon shared a letter of congratulations to Senator Hatch telling him how much we appreciate his returning to that committee and how we hoped to have a great working relationship with him. She asked board members to sign the letter. (For complete details of the letter, see General Exhibit No. 9513.)

Senator Hatch had a news release on his web site talking about Margaret Spelling the new Secretary of Education. Senator Hatch has invited her to visit Utah to meet with legislators and educators on NCLB and she has accepted that invitation. Senator Hatch also said: "While I support the concept of No Child Left Behind, the law has turned out to need some modifications and we need to fund it better." He further stated that, "Utah has received 60% more special education funding since President Bush took office, yet it is still not the full funding required by law.

Chairman Burningham noted that Board committee assignments had been sent to all board members, first via email and then regular mail. He urged board members to check their email as frequently as possible. He indicated that he depends upon email a great deal. He expressed appreciation to board members to taking the committee assignments. With regard to the outside committee assignments, we would like to know what you are doing on the various committees, but ask each one to take the responsibility to let the rest of the board know what is going on. He requested that board members let him know so he can include it in the board chairman report.

Chairman Burningham reported that as a result of the work study meeting yesterday there were no votes taken, but there was considerable discussion about educator quality, and as a result a task force will be pulled together by Superintendent Harrington to pursue issues of educator quality. A list of those issues was identified .

Chairman Burningham noted that in the past we have had meetings with legislative leadership of the republicans and democrats. It is sometimes very difficult to schedule. We have now scheduled a time for a meeting republican senate and house leadership on Tuesday, January 18 at 8:00 a.m. He requested seven or eight members who would be available to attend. Vice Chairman Cannon, Members Cluff, Colbert, Gregory and Brown indicated they would be able to attend.

Chairman Burningham further noted that we are also trying to line something up with the democrats as well at 9:00 am. We are also talking about a meeting with the Governor soon. Chairman Burningham noted that at our retreat it was noted that there needs to be more emphasis placed on long-term calendaring. The Consent Calendar now has an item that has not been there before, under tab g is a calendar which will be updated. He urged Committee Chairman to review the calendar and give input.

Chairman Burningham expressed regrets that some be able to attend the USBA Convention. Our relationship with the local school board is critical and a number of board members will be attending. He indicated he has personally written a letter of apology noting the reason some are not able to attend.

Chairman Burningham expressed appreciation to the representatives from the press.

Chairman Burningham noted that it was anticipated that a draft of a prayer policy would be available but there was a mis-communication and it is not yet ready. He indicated that the board would receive a draft policy via email prior to our next meeting for review.

Carol Lear, Coordinator, Government and Legislative Relations reported that there is currently no policy that establishes the way the board begins its meeting. She indicated that if the Board wants a policy it would be in the format of a board rule similar to the public participation rule. She commented that there is no necessity that it needs to be in board rule, it is a practice. The Board Bylaws is another place it could be. The Board needs to decide how they want to open their public meetings.

Chairman Burningham commented that we should have something in policy but it should be as we currently do it. The policy could be distributed to board members and then if they want to change the practice, fine. It could also be part of our Bylaws.

Carol Lear noted that the advantage to a rule is that it goes through the three reading process and is out for public comment, etc. The Board Bylaws are decided only by the Board. He suggested that the Board Bylaws be adjusted to include this issue.

Chairman Burningham reported that the next board leadership meeting is scheduled for Monday, January 24<sup>th</sup>.

Chairman Burningham reported that a subcommittee was appointed five months ago to begin a process of the evaluation of the state superintendent. We currently have no formal policy but we are trying to develop such. The

Committee consists of Members Sara Sinclair, Debra Roberts and he. Also, Superintendent Harrington has also participated. They have met three or four times and worked through a process. It has been expanded to not only be for the superintendent but the board as well. They have developed a concept statement of what it should look like. The committee met this morning and included Marlo Wilcox and Twila. Marlo is putting together the actual evaluation process. Chairman Burningham distributed a copy of the Feedback/Evaluation Process. (For complete details, see General Exhibit No. 9514.) He requested that Board Members review the process and provide any feedback to him. In the future the Board will receive sample questionnaires that will be used. We are thinking of doing the evaluation electronically and in so doing it we have a contact that will help us put together an evaluation form. The time frame is June to have results of the first evaluation.

Chairman Burningham further indicated that we see this as something that if it works it will be a model that local districts might use as well.

### Charter School Approval Process

The Utah State Board of Education has had some concerns over the process by which charter schools are approved since the passage of the 2004 legislation that created the Charter Board. A draft approval form has been created to address some of these concerns, which form requires the information the Board would like prior to their hearing of Charter Board recommendations. (For complete details, see General Exhibit No. 9515.)

The Board reviewed the draft form and discussed methods by which the charter school approval process may be improved.

Vice Chairman Janet Cannon commented that she liked the check list. She voiced concern that in the past it has been awkward as to who on the board should make the motion once the recommendation has been made by the Charter School Board. She further indicated she would like to see information presented relative to a charter school to include how the charter school board voted, a brief statement of the background of the sponsors, whether or not they have applied with the local school board, any concerns of the local district and she would like to see the number presented limited.

Member Teresa Theurer suggested that the agenda of charter school board meetings be mailed to board members so they know if there is something of interest. Also, a summary of the meeting such as the minutes. She would also like to see the Board review each individual charter school and vote separately.

Associate Superintendent Ray Timothy commented that after working with the State Charter School Board they are very conscientious and take their role the same as the State Board members. He indicated he has a lot of faith in that process. He would recommend that he work with John Broberg to get agendas out in advance to Board Members. He further commented that they also recognize the Boards authority of oversight of all public schools. They want to make sure those schools are supported and are very successful, and that the students have a quality education.

John Broberg, Executive Director of the Charter School Board expressed appreciation for the dialogue today and indicated support for the form prepared. He indicated they did not want to belabor twice every application. However, they recognize the authority of the Board in authorizing the schools. The Charter Board feels very strongly their responsibility to bring the best applications for charter schools. They will try to get information to the board early enough so concerns can be addressed.

#### Other Information

The Utah Atheists requested we handout information they prepared. (For complete details, see General Exhibit No. 9516.)

Chairman Burningham shared information relative to an evaluation of the Quality of Higher Education. Part of the evaluation was to look at how well people were prepared to come to higher education. This evaluation showed that Utah was one of top six in the nation.

Associate Superintendent Chris Kearn distributed information on the NRT Results. (For complete details, see General Exhibit No. 9517.)

Motion to adjourn was made by Member Debra G. Roberts and seconded by Tim Beagley.

Meeting adjourned at 5:15 p.m.