

## MINUTES

February 7, 2007

Minutes of the meeting of the State Board of Education held February 7, 2007, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 10:20 a.m. At the request of Chairman Kim R. Burningham, Vice Chairman Janet A. Cannon presided.

Members present were:

Chairman Kim R. Burningham  
Vice Chairman Janet A. Cannon  
Member Dixie L. Allen  
Member Laurel O. Brown  
Member Mark Cluff  
Member Bill Colbert  
Member Thomas Gregory  
Member Michael G. Jensen  
Member Randall Mackey  
Member Cyndee Miya  
Member Richard E. Moss  
Member Josh M. Reid  
Member Debra G. Roberts  
Member Richard Sadler  
Member Marlon O. Snow  
Member Teresa L. Theurer

Members Greg W. Haws and Denis R. Morrill were excused.

Also present were:

Superintendent Patti Harrington  
Deputy Superintendent Raymond Timothy  
Associate Superintendent Myron Cottam  
Associate Superintendent Patrick Ogden  
Executive Director, USOR, Don Uchida  
Public Affairs Director Mark Peterson  
Board Secretary Twila B. Affleck

Members of the Press:

Lynze Wardle, Standard Examiner  
Randy Merrill, Superintendent, Provo School District  
Gaye Gibbs, Westridge Elementary, Provo District  
Anne-Marrie Harrison, Sunset View Elementary, Provo District

Utah State Office of Education staff:

Marlies Burns, Executive Director, Charter Schools

Vice Chairman Cannon excused Members Greg W. Haws and Denis R. Morrill.

Vice Chairman Cannon shared some proverbs filled in by sixth grade students.

## Welcome and Student Achievement Spotlight

Board Member Debra G. Roberts lead the Board in the Pledge of Allegiance.

Board Member Josh Reid offered opening remarks sharing an NPR story about emigrant school children in the Country of Jordan. These are Iraki emigrants and the Jordanian government this year has put out an edict saying that public schools will be closed to the Iraki emigrants. They interviewed different families and one father indicated he could take his family back to Irak but was worried they would be kidnaped or worse there. Member Reid commented on how fortunate he was, having young school children, that in the United States he did not have to make those kinds of decisions. We have a great public education system that is open to the children. Further, what a great equalizer our public education system is. He commented on his father's growing up experience. He grew up in a poor mining town, went to school in s two room public school house and his greatest disappointment growing up was with the two rooms in the school, one for K-8 and as soon as you got into the fifth grade you could go to the other room and be with the bigger kids. When it got time for him to go and be with the bigger kids he was disappointed because there were not enough kids to go into the bigger class so they had to stay in the one room. His father attributes his success to public school and the teachers that took care of him and mentored him. As we go through the legislative session, it seems like there is great support for public education, he feels by some of the bills that come out that public education is under attack in certain areas. The one term, his father taught him was the world is run by the people who show up. It is important that we show up here today for public education, but it is also more important that we get more like minded people to show up and express their voice in support of the great benefit we have of a great public education system in our country and in our state. Installation of New Board Member

Vice Chairman Janet Cannon issued the Oath of Office to the newly re-elected Board Member Dixie L. Allen. It was noted at Member Allen was not able to attend the January 11, 2007 meeting.

The Board recognized Sue Pope and Jason Zimmerman, 2007 Elementary Milken Award recipients for 2007. At the time of the award Ms. Pope was a teacher at Westridge School, and Mr. Zimmerman was a teacher at Sunset View Elementary School, both in the Provo District. They were each presented their obelisk from the Milken Foundation.

## Board Standing Committee Reports

### **Law & Policy Committee**

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

### Driver Education Programs for Utah

## Schools, R277-746

Driver Education Programs for Utah Schools, R277-746 is amended to reflect title and revision date changes made to the August 2004 Driver Education for Utah High Schools manual. The new title of the manual is, "Driver Education for Utah High Schools Organization Administration, and Standards." The new revision date is December, 2006. The Committee reviewed the amendments to the rule. (For complete details see General Exhibit No. 10130.)

### Driver Education for Utah High Schools Organization, Administration, and Standards Revision

The first publication on *Driver Education for Utah High Schools*, which laid the foundation for the organization, administration, and standards of the driver education program in Utah, was developed by the Utah State Board of Education in 1962. The most recent revision of this publication was developed and organized by a statewide committee during 2003-04; it was approved by the Utah State Board of Education on August 6, 2004.

At the January 11<sup>th</sup> Board meeting, the Board directed a change to the handbook requiring students to be at least 15 ½ years old before being allowed to take drivers education. It was directed that the age requirement be deleted and left to the discretion of the local school district. Districts, meanwhile, are to be allowed to request exemptions to the current rule until the handbook is changed and approved. Three districts have since submitted letters requesting an exemption to the current board rule.

The Core Curriculum for Driver Education has been revised to comply with current legislation, updated forms, and revised teaching strategies and the minimum age requirement has been deleted. The handbook, *Driver Education for Utah High Schools Organization, Administration, and Standards*, reflects these changes as approved by a statewide steering committee, whose members represent various areas of driver education. (For complete details see General Exhibit No. 10131.)

The Committee made one amendment to the document under 4, Qualifications for Instructors of Driver Education, first bullet change to read: A valid teaching license with areas of concentration in secondary, special education, and/or counseling. Deleting the remainder of the section.

The Committee approved the amendments to R277-746, Driver Education Programs for Utah Schools on first reading and moves that the Board approve the amendments to R277-746 on second reading. Further, the Board approve the Core Curriculum for Driver Education, as outlined in the handbook. Motion carried unanimously.

It was noted that with the approval of the handbook the requests for exemption are no longer necessary.

### No Child Left Behind (NCLB) Highly Qualified Teacher Plan and Key Suggestions for Improvement in Reauthorization

Utah has just received a letter confirming the approval of the state's Highly Qualified Teacher Plan, submitted some weeks ago. The Law and Policy Committee reviewed the details of that plan. (For complete details see General Exhibit No. 10132.) Member Roberts noted that this is a work in progress.

The National Association of State Boards of Education's (NASBE) Governmental Affairs Committee (GAC) has requested that the Utah State Board of Education submit three or four key suggestions for consideration in the potential Reauthorization of the No Child Left Behind Act. Suggested revisions to the Language were reviewed by the Committee. (For complete details see General Exhibit No. 10133.)

Member Richard Sadler presented a packet of material from the Governmental Affairs Committee. He indicated that the meeting was focused on the kinds of changes that states and NASBE would like to have in the reauthorization of No Child Left Behind. It is important to have four or five suggestions from the Board because all that was said at the meeting was that it appears No Child Left Behind will be reauthorized with no new funding and perhaps even some of the funding related to education taken away because of the current budget situation particularly related to the war in Iraq. The best we may be able to get with the reauthorization is some of the kinds of changes that will make it much easier for a state like Utah to be in control of its own education.

The following is Utah's recommended suggestions for the reauthorization of No Child Left Behind:

Restore Constitutionally-protected state control over public education to the states of the nation.

1. Encourage and support growth model accountability plans that emphasize formative assessment and that regularly disaggregate and provide for longitudinal, individual student data.
2. Ensure full flexibility for states to determine Highly Qualified Teacher status.
3. Appropriately address the needs of Students with Disabilities and English Language Learners, tying assessment and goals to current performance and reasonable expectation.
4. Amend the Title VIII (Impact Aid) to provide for loss of local property tax revenue due to large federal land holdings. Utah recommends language such as: "When fifty percent or more of a school district's land is owned by the federal government, this becomes an additional qualifier for Impact Aid funding."

Motion from the Committee that the Board approve the recommendations to be presented to NASBE.

Motion carried unanimously.

#### Law & Policy Committee Strategic Planning

The Committee completed the 2006 calendar and reviewed their outlined goals and accomplishments. They also reviewed the committee's role and responsibilities, and developed a calendar for the 2007 year.

The Committee recommended that every individual board member write a thank you note to their personal legislator after the legislative session.

Secondly, that a meeting be held in September with legislators rather than in November.

## Finance Committee

Member Mark Cluff, Chair of the Finance Committee presented the following recommendations from the Committee:

### Pupil Accounting - Waiver for Public Health Emergencies, R277-419

Last month staff presented for Board consideration amendments to R277-419, Pupil Accounting - *Waiver for Public Health Emergencies*. The intent of the amendment was to begin implementing contingencies for dealing with emergencies such as a deadly influenza pandemic. Some on the committee were concerned about granting the State Superintendent authority to waive the 180 day, 990 hours of instruction requirement in the event that the Board was unable to meet and take action in a timely manner.

A second concern, unrelated to the proposed amendment, was raised with regard to existing rule language that allows districts to use the prior week's attendance figures for the last three days of school.

Staff presented an alternative to the amendment that would allow districts and charter schools to continue to receive funding in the event that the state or a local health department prohibits the holding of school for health and safety reasons. The Board may waive the day and hour requirement based on a vote of Board Members, or, in the event that the Board is unable to meet in a timely manner, the State Superintendent may issue the waiver following consultation with a majority of Board Members. Districts and charter schools must make every effort to make up or provide alternative methods of instruction for the impacted students. (For complete details of the proposed amended rule see General Exhibit No. 10134.)

The Committee amended the rule under R277-419-3.A(3)(h) to remove that section. The Finance Committee approved the amendments to R277-419, Pupil Accounting on first reading and moves that the Board approve the amendments on second reading. Motion carried unanimously.

### Prohibiting the Charging of Secondary School Fees Related to Required Courses and Enforcing the Requirement that LEA's and Schools Submit Information as Outline in Permanent Injunction

#### *Doe vs. Utah State Board of Education*

Board Member Tom Gregory proposed prohibiting the charging of fees for enrollment, participation, or completion of required courses. He also proposed prohibiting textbook fees for required courses. The state constitution allows the Legislature to authorize the imposition of fees in secondary schools, under rules adopted by the State Board of Education. The Legislature has done so through statute. *Doe vs Utah State Board of Education* requires that school boards and schools provide fee and fee waiver information annually. Despite this requirement, the State Board does not have complete information about fees charged and fees waived. (For complete details see General Exhibit No. 10135.)

The Finance Committee discussed the implications of eliminating fees for core classes.

The Committee directed staff to look at classes required for graduation and a sampling of what school districts are charging fees for. Based on that, to look at going to the legislature for other methods of funding for those fees. This should take about two months.

No action was recommended.

Foods of Minimal Nutritional  
Value in Our Schools - Follow up  
Discussion

Last fall, the committee heard discussion surrounding the use of vending machines in schools and the selling of foods of minimal nutritional value (FMNV.) Staff was directed to return with suggestions for Board action.

The staff presented a proposal that the Board adopt a goal of eliminating the selling of foods of minimal nutritional value in Utah schools by 2012. The Utah State Office of Education will seek input from districts on the possibility of eliminating FMNV in our schools and presented its findings and recommendations to the Committee. (For complete details see General Exhibit No. 10136.)

The Finance Committee directed staff to research the impact of eliminating the selling of FMNV in school vending machines and to return with suggestions, including a possible rule, for eliminating FMNV from school vending machines.

Member Teresa Theurer encouraged the Board to keep up with this. The obesity issue is a great concern among our children, and the Board needs to take the lead on this.

Member Cluff indicated that this is a minimum and we need to look at what more can be done.

Member Teresa Theurer also suggested that the Board look at the physical education requirements in K-12. She felt this area needed to be enhanced, especially in the elementary grades. She noted that there are statistics indicating that the generation coming up probably won't live as long as our generation.

Annual RDA Report to the Board

The Committee did not discuss this item and asked that it be presented at the next meeting.

Budget Update

---

Staff presented an update on the legislative budget action and discussions to date. More discussion of this item will be had later in the meeting under Legislative Discussion. (For complete details, see General Exhibit No.10137.)

No action was required.

Safe Guarding School Funds Followup

Last month, the committee expressed a desire to know more about the alleged misuse of federal Title 1 funds in the Davis School District. Davis School District personnel made a presentation on the allegations in an executive session of the committee due to the nature of the discussion regarding investigative proceedings regarding allegations of criminal misconduct pursuant to 52-4-205(1g)).

Davis District Superintendent Bryan Bowles indicated that Davis District will be putting out a press release relative to a response to the allegation. They are looking at hiring a full time auditor rather than a half-time auditor.

Member Randall Mackey commented that he was impressed with the steps being taken by the Davis District. He suggested that we look at what Davis is doing in this regard and make the information available to other districts in an effort to avoid these type of problems in the future. Further, that perhaps new rules could be drafted and applied across the state. He suggested that at the next meeting Superintendent Harrington prepare an outline of ways of following-up on the Davis issue and how those can be used by others.

Member Laurel Brown requested that when the press release is available that the entire board receive a copy.

### **Curriculum Committee**

Board Member Teresa L. Theurer Chair of the Curriculum Committee presented the following recommendations from the Committee:

Member Theurer distributed a reply on SB 81, Home School and Extracurricular Activity Amendments, from Evan Excell, Executive Director of the Utah High School Activities Association. She asked that this be discussed during the legislative discussion later in the meeting. (For complete details see General Exhibit No. 10138.)

#### 4-6 Mathematics Improvement Program

The 2006 Legislature passed H.B. 181, and appropriated \$7,500,000 of non-lapsing one-time funding from the Uniform School Fund to fund proposals from school districts and charter schools to improve mathematics achievement test scores of students in grades four through six.

Qualifying proposals shall use professional development, incentive bonuses, or a combination of professional development and incentive bonuses as strategies to improve mathematics achievement test scores of students in grades four through six.

The Math Improvement RFP resulted in 26 proposals. The proposals went to external evaluators and were ranked for funding. Of the 26 proposals, 13 were selected for funding.

Nicole Paulson, Elementary Mathematics Specialist, updated the Curriculum Committee on the implementation of the 13 funded projects. (For complete details see General Exhibit No. 10139.)

The Curriculum Committee received the report on the 4-6 Mathematics Improvement Program as information. No action was required.

## Mathematics Core Revision Update

The Mathematics and Statistics Department of Utah State University is supervising and facilitating a revision of the Utah Elementary and Secondary Mathematics Core Curricula. This revision is being conducted as per suggestions resulting from findings of the Mathematics Core Review Committee, recommendations from a study conducted by WestEd, and at the request of the State Superintendent. Dr. Russell Thompson is directing this project.

The Curriculum Committee heard an update on the Mathematics Core Curricula revision. No action was required. (For complete details see General Exhibit No. 10140.)

## Public School Textbook Evaluation, H.B. 364

H. B. 364, Public School Textbook Evaluation (2007 legislative session), prohibits a school district or charter school from purchasing instructional materials unless the materials have been evaluated by an independent party for alignment with the core curriculum, and requires that the alignment evaluation be made available on a website at no charge. (For complete details see General Exhibit No. 10141.)

The concern is to make sure we have a broad enough choice for districts to choose from and the word primary is added. Further that the two pieces of legislation that are in conflict with each other are clarified. Utah State Office of Education staff is working with the sponsor of the bill on these modifications.

Member Tom Gregory commented that with this legislation the legislature is unconstitutionally encroaching on our authority.

Chairman Burningham indicated that there is a cost issue – probably at the consumer level.

## **Full Board Meeting**

### Public Participation/Comment

No comments were received.

### Executive Session

Motion was made by Member Thomas Gregory and seconded by Member Debra G. Roberts to move into an executive session for the purpose of discussing personnel issues and potential litigation. The Board was polled and by unanimous consent of those present the Board moved into an executive session at 11:30 a.m.

Motion was made by Member Dixie L. Allen and seconded by Member Mark Cluff to reconvene into open meeting. Motion carried unanimously. The Board reconvened at 1:22 p.m.

## **Utah Professional Practices Advisory Committee Recommendations**

Motion was made by Member Thomas Gregory and seconded by Member Mark Cluff to concur in the recommendation of UPPAC and the hearing panel following a hearing for consideration of the reinstatement, in Case No. 99-478 and reinstate the license of a former educator in the North Summit School District. It was noted that conditions outlined in the hearing report, which needed to be completed prior to reinstatement of license, have now

been fulfilled by the educator. The license was suspended in 2000 as a result of inappropriate and unprofessional accounting of school funds and expenses over an extended time period. It was further noted that the hearing report was reviewed in the Executive Session. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

Motion was made by Member Thomas Gregory and seconded by Member Dixie L. Allen to concur in the recommendation of UPPAC and the hearing panel following a hearing for consideration of reinstatement in Case No. 04-720 and reinstate the license of a former educator in the Washington School District. The license was suspended as a result of the educator's diversion of school funds for personal use over a year's period of time. It was noted that the hearing report was reviewed in the Executive Session. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

Motion was made by Member Thomas Gregory seconded Dixie to concur in the recommendation of UPPAC in Case No. 06-791 and accept a stipulated agreement, including conditions of the agreement, whereby a former teacher in the Nebo School District voluntarily surrenders his educator license in lieu of a hearing for purposes of suspension of his license for 18 months from the date of formal action by the State Board of Education. The suspension results from using school computers and information systems to view pornographic materials. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

Motion was made by Member Thomas Gregory and seconded by Member Dixie L. Allen to accept recommendation of UPPAC in Case No. 06-772 and suspend the educator license of a former teacher in the Alpine School District for two years, with specific conditions, from the date of formal action by the State Board of Education. The suspension precludes the educator from teaching or working in any capacity in the public schools. Further, with an amendment that the educator be prohibited from working with public school athletics or as a coach, whether in a paid position or as an unpaid volunteer. Further, that the Board recommends that when reinstatement is considered, if that is the case, that it be reviewed very thoroughly, that we might be uncomfortable in the future with reinstatement if conditions were only minimally complied with.

The suspension results from the educator engaging in a pattern of emotional abuse and religious discrimination against students and contrary to the directives of his supervisor, state law, and local and state board policy and rules. He violated student confidentiality by discussing students with other students and parents. He allowed and encouraged students and others to harass female students. It was noted that the hearing report was reviewed in the Executive Session. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

(For complete details of the recommendations see General Exhibit No.10142.)

## **Adult Education Advisory Committee**

Motion was made by Member Laurel O. Brown and seconded by Member Teresa L. Theurer to appoint the following to the Adult Education Advisory Committee, terms to expire following their name in parentheses: Scott Greenwell (2008), Kathleen Johnson (2007), Russell Thelin (2007), Agnes Chiao (2008), and Randall J. Merrill (2008). Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

### Utah State Charter School Board Appeal

Following the Board's January meeting at which time the Board passed a motion regarding the Monticello Charter School, a written appeal of that decision was received by Utah State Board of Education Chairman Kim R. Burningham. The appeal seeks to have the matter reviewed by the State Board. (For complete details see General Exhibit No. 10143.)

Superintendent Patti Harrington reviewed the past history of the Monticello Charter School request to add ninth graders to their school in 2007-08. The State Charter School Board allowed this addition for the 2008-09 school year. This recommendation was brought to the Board in January 2007. There was much dialogue and some communication had between board members, State Charter School Board and leadership of Monticello. In discussion of the motion the Board gave great dialogue as to whether the school should be expanded in 2008-09 or 2007-08. The motion of the Board was that the Board would allow the expansion to occur in 2007-08. The State Charter School Board has now asked that the Board allow them an appeal to that decision.

Scott Smith, Chairman of the State Charter School Board commented that the history presented by Superintendent Harrington is correct. He apologized for his not being in attendance when the Board made the decision in January. There was some mis-communication and they were not aware that this decision was going to be made. The State Charter School Board feels that there was some hard decisions made, and the decision on Monticello was made because it is a school of choice and parents coming into the school knew that a ninth grade would not be possible during that year and chose to come to that school knowing that. With that, they felt delaying would not harm the school, but would them to keep the process they had put in place. The State Charter School Board is making some hard decisions in putting policies and procedures in place which has made it difficult for all. The State Charter Board would like the Board to allow the appeal so there could be dialogue and then they will respect the decision of the Board.

Vice Chairman Janet Cannon reported that the Board has been advised by its attorney's, having gone through the statute and rule that are in place, that the action of the Board would be deemed to be final. Schools have an appeal availability to the Board; the State Charter Board does not have the ability to appeal according to the interpretation. We recognize that there were mis-communications on our part, we also recognize we are trying to do things here that are totally new. As we looked at the statute we found there are loop holes in the law, and the appeal

process that is ill defined. We proposed that we take some steps to do a better job in working these out and working with the Charter School Board so that we do not have any of these situations come before us.

Chairman Kim Burningham made a public statement that we really appreciate the State Charter School Board and the efforts under Mr. Smith's direction to give strong oversight and we feel this whole set of circumstances has not been helpful in that process. We acknowledge that and feel regretful.

Motion was made by Chairman Kim R. Burningham and seconded by Member Bill Colbert that a committee of four members of the State Board consisting of Denis Morrill, Laurel Brown, Randall Mackey and Mark Cluff be appointed to meet with representatives of the Charter Board to identify all the areas where clarity does not exist where it ought to, where the process ought to be mapped out more fully and they will come back with recommendations in our next meeting as to how we can move ahead to accomplish those tasks. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

Vice Chairman Cannon clarified that on the advice of legal counsel we are having our action stand, as the statute indicates that the vote of the Board is final. Further, that schools have the ability under the laws as they now stand, to appeal, but the State Charter School Board does not.

Scott Smith stated that the only reason the State Charter School Board filed the appeal was on advice of the attorney. If this is the end result, they are thankful.

Vice Chairman Janet Cannon offered regret for any discomfort in working between the boards. It is our desire, as we know it is the State Charter School Boards, to best serve the school children of Utah and we hope this committee can help us do that in a better way. We have no desire to step on toes. We appreciate the huge amounts of work that the State Charter Board does.

Member Bill Colbert commented that some of the confusion last time was because the charter board was not represented here. It would be good policy from now on if there is a State Charter School Board recommendation we recommend or insist a member of that Board be present to make the recommendations. Vice Chairman Cannon indicated this would be an item for discussion by the committee.

Member Tom Gregory commented that part of making a charter amendment, on advice from attorneys, that it is being done by agreement. He suggested it would not be inappropriate for the State Board to suggest that there be time lines and other pieces of approval in place steps that the charter school would need to meet and adhere to in order to stay on that time line for approval. He asked Mr. Smith how he would feel about asking the State Charter School Board to be involved in developing a compliance time line. Mr. Smith responded that this is something the new director has put into place in response to the audit.

Member Gregory indicated that to be specific, now this approval is in place, that for the approval to stay on

track that certain deadline would need to be met.

### State Charter School Recommendations

In its January Board meeting, the State Charter School Board (SCSB) reviewed requests for a re-charter from the Davis School District to the State Board; and amendments to increase enrollment - K-6 by 175 and to add grades 7-9, 100 students per grade of North Davis Preparatory Academy. Charter amendments to increase enrollment K-8 by 194 (total student population 810) to the Thomas Edison-South Charter School.

The State Charter School Board recommended the above re-charter and amendments to the State Board of Education. (For complete details see General Exhibit No. 10144.)

Motion was made by Member Debra G. Roberts and seconded by Member Richard Moss to approve the recommendations from the State Charter School Board relative to North Davis Preparatory Academy and Thomas Edison- South Charter Schools. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

### Legislative Update

Deputy Superintendent Ray Timothy presented current proposed legislation/issues within the purview of the Board for the Board's review and potential action. (For complete details of the Tracking Sheet and other information see General Exhibit No.10145.)

The following action was taken by the Board on legislation issues:

**HB 75, Procedures of Dividing School Districts  
and SB 30 S1, Creation of New School District Amendments**

Member Laurel Brown commented that she would like to see the bill indicate how a separation would take place and that all parties affected have a say in the matter. She felt that Senator Walker's bill is moving a little more in that direction.

Motion was made by Member Laurel Brown and seconded by Member Teresa L. Theurer to put a watch on SB 30S1.

Member Teresa Theurer requested clarification of the two bills. Deputy Superintendent Ray Timothy indicated that the main differences, and the reason that many of the education organizations support Representative Mascaro's more than Senator Walkers bill is that it allows all individuals to vote.

Member Mark Cluff reported that HB 75 in practicality it is dead, and SB 30S1 is the one that will be moving. Also with the amendments there is language that said interim committee [in their own discussions] was going to look at whether or not there is a size requirement that is best for school districts.

Member Cluff reported further that there was a *Deseret Morning News* poll taken and they asked three different questions with regard to splitting school districts; increasing funding to cover school districts and every one

of them received over 50% in favor. He stated that sometime we complain that the legislators do not listen to their constituents in funding and other areas. The question is, are we willing to listen to our constituents in regard to splitting school districts.

Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

#### **HB 12 - Additional State Retirement Benefits**

Motion was made by Member Dixie Allen and seconded by Member Laurel O. Brown to support. Motion carried with Members Allen, Brown, Burningham, Cluff, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Colbert abstained; Member Sadler absent.

#### **HB 69 S 2 – County and Municipal Land Use Provisions Regarding Schools**

Motion was made by Member Mark Cluff and seconded by Member Laurel O. Brown to support. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, and Roberts voting in favor; Member Theurer abstained; Member Sadler absent.

#### **HB 186 - School Safety Amendments**

Motion was made by Member Dixie Allen and seconded by Member Teresa L. Theurer to take a position of unnecessary.

Amendment to the motion was made by Member Tom Gregory to add a comment that this is beyond the Legislatures Constitutional authority; this is an area that is left to the State Board of Education. Amendment accepted by Members Allen and Theurer.

Motion as amended carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

#### **HB 215 S 1 - School Reporting Amendments**

Motion was made by Member Laurel O. Brown and seconded by Member Richard Moss to support. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

#### **HB 234 - Compensation of Local School Board Members**

Motion was made by Member Debra Roberts and seconded by Member Bill Colbert to take a position of no position.

Member Tom Gregory spoke against the motion feeling that this bill is necessary. Local boards have taxing authority, this does not affect the State Board, and perhaps the reason the other education entities have chosen no position is because it affects them. He felt it was fitting to give local school boards the same authority that every other elected board, except the State Board, has in setting their own salary.

Substitute motion was made by Member Tom Gregory and seconded by Member Mark Cluff to take a position of support of HB 234.

Member Mark Cluff reported that he and Representative Dougall had presented this to the Alpine School District which is a large district and the majority of that board was in support of this. They spend approximately 20 hours per week doing board work. They felt that if it were raised they could attract more candidates of people who were willing to serve because of the time commitment. Member Cluff noted that this just gives them an option.

Member Debra Roberts spoke against the substitute motion stating this is not an issue the Board should take a stand on and she did not feel comfortable doing so.

Substitute motion failed with Members Brown, Burningham, Cluff, Gregory, Jensen, Mackey and Morrill voting in favor; Members Allen, Cannon, Colbert, Roberts and Theurer opposed; Members Moss and Sadler absent.

Original motion failed with Members Cluff, Gregory, Jensen, Mackey and Moss voting in favor; Members Allen, Brown, Burningham, Colbert, Morrill, Roberts and Theurer opposed; Member Sadler absent.

#### **HB 239 - School Community Council Amendments**

Motion was made by Member Teresa L. Theurer and seconded by Member Dixie L. Allen to support. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

#### **HB 286 - School Discipline and Conduct Amendments**

Motion was made by Member Dixie L. Allen and seconded by Member Thomas Gregory to take a position of unnecessary. Motion carried with Members Allen, Brown, Burningham, Cluff, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Colbert opposed; Member Sadler absent.

#### **HB 291 S2 - Students Qualifying for Services for the Deaf**

Deputy Superintendent Timothy recommended the Board take a hold position because there are some wording changes that need to be made. He indicated that we could be supportive of the bill with a wording changes that needs to be made that services are provided to those **below** the age of 22.

Motion was made by Member Teresa L. Theurer and seconded by Member Dixie L. Allen to take a position of hold.

Member Debra Roberts offered an amendment to the motion to take a position of hold with comment that if the changes are made in language the Board would support the legislation.

Member Theurer did not support the amendment because she felt this is not something we should be doing.

Substitute Motion was made by Member Debra G. Roberts and seconded by Member Mark Cluff to hold with comment that if changes are made in the language relative to the age of services the Board would support the legislation.

Substitute motion carried with Allen, Burningham, Cluff, Colbert, Jensen, Mackey, Morrill, Moss and Roberts voting in favor; Members Brown, Gregory and Theurer opposed; Member Sadler absent.

Vice Chairman Janet Cannon noted that Chairman Burningham needed to leave to catch a plane and further action relative to the Legislative Update would take place after the Board Chairman Report.

### Board Chairman Report

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

Chairman Burningham commented on the press release that pointed out once again how many of our kids take advancement placement classes right at the top and how they all do very well. We have a good record.

National Association of State Boards of Education (NASBE)

Member Mark Cluff who serves on the NASBE Board of Directors reported on the following from the Board of Directors meeting:

- They are looking at the way their money is invested. Right now money just sits in account or in CD's and we are looking at it going to a much more lucrative investment for this money over time to help bring in more money for NASBE.
- Presentation on National Standards which was the main discussion of each of the regional meetings. There are a couple of bills in Congress. The response of NASBE is to be pro active in coming out with our position of what we think national standards should be, do or not be or do. The discussion was heading in the direction that we don't have a problem with the Department of Education making suggestions for the states to work towards or surpass, but nothing be required of the states He requested that if anyone had any input or other items to pass on with this to please give them to him.

Member Dixie Allen requested the number of schools on school improvement from staff for her to take to the March meeting. .

Chairman Burningham commented that he feels our participation in NASBE is very important. Further, we have had the philosophy that we ought to have one person as an officer of that organization almost continually. Right now we have Mark Cluff serving on the Board of Directors representing the Western Region. Currently they are in the process of accepting nominations for future officer positions. The position of Secretary/Treasurer will be open in the next election cycle. He has been in conversations with the leadership of NASBE and he felt it would be appropriate that Greg Haws be nominated for that position. He would have to run for that position. Member Haws was not present at the meeting but has indicated he would be willing to accept the nomination.

Motion was made by Chairman Kim R. Burningham and seconded by Member Mark Cluff to nominate Greg W. Haws as Secretary-Treasurer NASBE. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Sadler absent.

Chairman Burningham further indicated that we are entitled to nominate people for various awards, such as Friend of Education and Distinguished Service Award and Policy Leader of the Year. At this point we don't feel we should make any nominations. In the past we have nominated Jon and Karen Huntsman and Bob and Katherine Garff. We feel, however, somewhat frustrated by the nomination procedure.

Motion was made by Member Laurel O. Brown and seconded by Member Bill Colbert to nominate Karen and Jon Huntsman for the Friend of Education Award. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Moss, and Roberts voting in favor; Members Theurer and Sadler absent.

Chairman Burningham shared the Executive Summary of the POPS Organizations Report covering all of their activities over the past year. (For complete details see General Exhibit No. 10146.)

Chairman Burningham noted that the Board has agreed to meet on Wednesday April 4 prior to the April 5<sup>th</sup> Board meeting to have a study session. Our intent was to have three different items studies by three different groups, similar to the NASBE model. We recognize that the Law and Policy Committee made a request today that they be given some time during that meeting to do something else, which may become one of the three. Leadership will be sending out a survey for Board Members to identify their top priorities for topics for the study session. Further, study sessions have been scheduled for Thursday, August 2 and Thursday, November 1. We have decided to have our September meeting will be off site in Washington County. At that time we will be going through final budget figures to be submitted to the Governor. We have talked about giving a State of Education speech and maybe this can be done in connection with the September meeting.

- Meetings and Relationships with Legislators.

On Wednesday, January 24, Superintendent Harrington, Member Mackey, Deputy Superintendent Timothy, Member Roberts and he went for a meeting with the Senate Leadership. After waiting for 45 minutes Superintendent Harrington was called away to meet with House Leadership, Debra and Ray had to meet on some Pro Excel matters with other legislators and he and Member Mackey stayed in what he would call one of the most interesting meetings he has ever attended in his life. It started by them asking if we had anything to talk about and we shared one sentence about the OPEB report which we had been requested to respond to and the subject was changed to vouchers and continued for one-half hour. Member Mackey noted that they did make a suggestion that we provide to them positive feedback following the legislative session.

Chairman Burningham noted that we have sought to have a meeting with House Leadership and although many attempts have been made we have been unable to make such an appointment. However, on January 24, Superintendent Harrington had a lengthy meeting with House Leadership that she will report on during her report.

We are also in the process for lining up an exact date for meeting with the Democratic Leadership will be

held shortly.

Chairman Burningham noted that the meetings on legislation, the next one being on Friday, February 16. Another meeting has been scheduled for Friday, February 23, but it is not likely that will not be held because it will be too late.

We have talked about having a template prepared that Board Members could send to their respective legislators that would say what positions the Board had taken on particular bills. This will still be pursued. Chairman Burningham stressed the need for Board Members to communicate with their legislators on many of the education issues.

Chairman Burningham noted that Leadership has another meeting scheduled with the Governor on February 15. He requested that if Board Members had issues they would like brought up with the Governor to let him know.

Chairman Burningham noted that February 20 will be the next Board leadership meeting. A copy of the agenda is sent out to all Board Members. If there are additional items he would appreciate Board Members letting him know so they can be included in the agenda. Also mentioned that on the same day we plan to hold a quarterly meeting with committee chairs. Twila will be contacting those involved.

March 9-11 in Washington, DC, both he and Patti will be attending a meeting which is bringing together all the education community nationwide.

Chairman Burningham commented on the group that has been tentatively titled, Citizens for Education Excellence. We are trying to bring together a group of people who are very supportive of education and want to see its funding supported and support for it continued, not only this year but in future years. That group is moving along very well. At this point it is co-chaired by former Governor Olene Walker and Scott Anderson, CEO of Zions Bank. It includes Lane Beattie, Chamber of Commerce; LaVell Edwards, Ardith Kapp, John Pingree, Dave Sperry, and Lynne Ward. It is still in a bit of flux but this is moving. It is important that this group be very independent. They are not an arm of the Board. They have passed a resolution, but the names of the people have not been included at the bottom because he is waiting for two members to give approval of the wording. They have all approved on the idea of a resolution and he has been instrument in the drafting of such. Chairman Burningham distributed a copy of the resolution. (For complete details see General Exhibit No. 10147.)

Superintendent added that October 25-26 the legislature would like to repeat the joint meeting of the Regents and this board and legislative education committees. The meeting will be held in Logan at Utah State University

Tabby Mountain - School Trust

Lands Position

The Tabby Mountain block is 1 ½ hours east of Salt Lake City and contains 28,482 acres, 23,640 acres (83

percent) of which belong to the schools. This is the largest block of trust lands near Salt Lake City. The land is in Wasatch and Duchesne Counties. Appraisers and real estate experts indicate that land prices near Tabby Mountain have been increasing in the double digit range. The forested land has green meadows and valleys and is used extensively for hunting, fishing, camping and recreation. Primary revenue sources are harvesting timber, telecommunications sites, and grazing.

To date, the School and Institutional Trust Lands Administration (SITLA) Board has not offered the property for sale. The SITLA Board has the legal and statutory duty to act with undivided loyalty to the beneficiaries of the trust lands, the school children of Utah. "The beneficiaries do not include other governmental institutions or agencies, the public at large, or the general welfare of this state." (53C-1-10-2).

The SITLA Board recognizes the Tabby block as a unique and valuable asset. SITLA, when it chooses to sell property at auction, currently receives an average of 43 percent above appraised value for land sales. Nearby lands in Wasatch County recently sold for 225 percent above appraised value.

The State Board of Education discussed its position regarding the Tabby Mountain property at its November 2005 Board meeting. Board members agreed to support SITLA in its statutory responsibility to act in the best short and long term interest of the school trust land beneficiaries, Utah's school children.

At its January 25, 2007 meeting, the SITLA Board voted unanimously in favor of maintaining the Tabby Mountain asset until a future date. Minutes of the SITLA Board meeting were reviewed.

Before and after the November 2005 action taken by the State Board of Education and the January 2007 action taken by the SITLA Board of Trustees, the Division of Natural Resources (DNR) has sought help from the Governor to obtain and preserve certain rights on the Tabby Mountain property, up to, and perhaps, including, obtaining state ownership of Tabby Mountain at fair market value.

The Board heard from Mike Styler, Director, Division of Natural Resources and Robyn Pearson, Deputy Director, Department of Natural Resources. Mr. Styler reported that Natural Resources does not currently have the money to purchase this parcel of land, they are hoping that the legislature will give them some money. When they do get the money he does not know what the offer for the land will be. He indicated that he told the SITLA Board they would be willing to offer appraisal plus ten percent. We can't nail down the price because we don't know what it is. We have not made an offer because we don't know if the legislature is going to appropriate any money.

Mr. Styler reported that they have told the SITLA Board for several years they are interested in this piece of property. He indicated that they agree with the SITLA Board. Their mission, is to raise money for the permanent trust. They have done an excellent job in raising this money and investing it wisely. He referred to a report prepared by Kay Burton a member of the SITLA staff which is a comprehensive look at the Tabby Mountain block which is 28,000 acres, half in Wasatch County and half in Duchesne County. The report indicates that the best way to get our

most value out of this may be to sell it. Based on this, the local officials in Duchesne and Wasatch County began calling National Resources. Mr. Styler distributed copies of letters and resolutions from the Wasatch County Council, Duchesne County Commission and the Uintah County Commission in support of the purchase of Tabby Mountain by the Department of Natural Resources if certain criteria are met. (For complete details of the letter see General Exhibit No. 10148.) They are in support of keeping this land public because it is pristine, for the watershed, grazing, logging, camping, etc.

Mr. Styler explained how they came up with a number to purchase the property and their request to the legislature for \$20 million is year, which is included in the Governor's budget. They are not thinking this is even half of the value because they don't know what the value will be.

Mr. Styler indicated that they have several parcels of land that are owned by Wildlife Resources and Sovereign lands which could be part of a trade for Tabby Mountain. There are several scenarios that could be used to purchase Tabby Mountain.

Mr. Styler indicated that the win/win of their proposal, if they get the money and are able to make an offer to SITLA some day, a potential offer would be at least appraised value plus ten percent. If there was land involved in the trade, that land would appreciate also just as Tabby Mountain is appreciating. There would be tremendous good will engendered by the public. We have a window here where there are funds in the General Fund where we might be able to purchase this.

Mr. Styler asked the Board for their support for the win/win situation of a public purchase of Tabby Mountain. The Board would not only get to have the money, but be able to keep using the property.

Mr. Styler shared a proposed Tabby Mountain Management Team should they be able to purchase the property.

Member Bill Colbert suggested that Natural Resources get a first right of refusal in place so if SITLA decided to sell the property they would have that in place.

Member Laurel Brown reported that she has studied this property extensively and she feels that the SITLA Board is wise in keeping this property and managing it at this time. It is her understanding that at this point in time hunters use the property and we have grazing rights, camping, etc. In terms of having the school children own the land, if we were to sell the land they would not own the land, the Division of Natural Resources would own the land. She respectfully disagreed that the SITLA Board cannot care for the children. The SITLA Board is charged with managing the land prudently in trying to get the most benefit and profit out of the land. One reason they are waiting is because it has not reached its ripeness in terms of its value. She does not see the compelling reason for selling this land when the amount per acre is being offered seems low. Member Brown voiced concern that in the future the Division of Natural Resources may take parcels of that land and turn them into private preserves that would limit access.

Robyn Pearson stated that he lives in Wasatch County and was the County Economic Development Director for ten years. He has watched how the county is developing, similar to others. He commented he would like to see this land preserved. If the value of the land is going to reach its maximum, it ultimately is going to have to be sold. He did not believe SITLA is going to be able to maximize the profits they are going to expect from that 28,000 acres without selling it. Right now they are not making a whole lot of money off that land. The potential there would be for maybe some harvesting of some of the timber or enhancements to wildlife hunting opportunities. The maximum value is for rooftops. The two counties support keeping it in public hands. If it is SITLA's intent to keep it in public hands forever, they are supportive of that because they think this is where the value is ultimately maximized.

Mr. Person used an example of the Wasatch Mountain State Park and those that had the vision to protect that land in perpetuity were very insightful. The value of all of the land around this went up expediently and they believe that is what will happen with the Tabby Mountain area.

The Board also heard from Margaret Bird, School Trust Lands Specialist, Utah State Office of Education who reported that this was a trust granted to us two years before statehood. We gave up an awful lot as a state in order to get these lands for education. She gave further information relative to the trust and how it has been set aside for the children of the state.

The decision on when to sell Tabby Mountain is not made by us, the Governor or anyone other than the Board of Trustees who are to act solely in the interests of the school children. They have decided this property is not for sale at this time.

Ms. Bird indicated that this property is beautiful, one of the two most beautiful pieces of trust lands that exist in the State of Utah. She reported that there has been three appraisals. Her recommendation would be hold based on the increases indicated in these appraisals.

Ms. Bird indicated that the State Board does not need to take action on this because the Board of Trustees has not put the property up for sale. The Natural Resources Appropriations Committee in the Legislature has not appropriated any funds for this purchase.

The SITLA Board is the one charged at making the decision on the short and long term decision at this time. Properties in this portion of the Uintah Basin has been going up in triple digits. They are expecting about a 7% return over the next year on their investment..

Member Tom Gregory spoke in support of the SITLA decision. He would welcome the day when an investor gives us an offer we can't refuse.

Member Debra Roberts stated that she strongly supported the position of SITLA and it is important to have those reserves. She gave another view point of some property in Beaver County where a portion of the heritage of the people of Beaver County be locked away because private people feel it needs to be locked up. Sometimes a trust and a

heritage is more than money – sometimes a trust and a heritage is land.

Member Michael Jensen expressed support for the property not being for sale. He indicated he has a problem with someone coming in with money for something that is not for sale. We should not start a president now.

Member Dixie Allen reiterated support for the decision made by SITLA. She indicated she lives in the Uintah Basin and this is a beautiful piece of land and we are handling it very well. She expressed support for the Board's previous letter given to SITLA and their decision.

Mr. Styler stated that it was not part of the record but at the last SITLA board meeting one board member said anything we have is for sale if the price is right. Traditionally that is what has happened, if the price was right they are wanting to maximize the trust. He did not know if they could match the highest offer, they are not trying to steel it or forcing anyone to sell something that is not for sale. They have expressed an interest - not even made an offer. They are only indicating they would like to in the future make an offer. He respectfully asked the Board to instead of opposing a sale to voice support for what the SITLA Board chooses to do with Tabby Mountain.

Margaret Bird expressed appreciation to the Board for their support of SITLA.

#### Legislative Update Cont.

Superintendent Harrington reported that the Public Education Appropriations Subcommittee has been meeting during the legislative session. They heard us out and listened to Board priorities in large measure. However, the Executive Appropriations Committee makes final recommendations.

Associate Superintendent Patrick Ogden reviewed the comparisons of the Boards request and the Subcommittee & HB 3 which has been passed and signed by the Governor. This is where we stand as of today. (For complete details see General Exhibit No. 10149.)

#### **HB 381 - ProExcel**

Motion was made by Member Michael Jensen and seconded by Member Mark Cluff to support. Motion carried with Members Allen, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Brown, Burningham, Mackey, and Sadler absent.

#### **HB 416- Teacher Loan Program**

Motion was made by Member Bill Colbert and seconded by Member Dixie L. Allen to support. Motion carried with Members Allen, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Brown, Burningham, Mackey and Sadler absent.

#### **SB 70 - Utah Valley University Institutional**

#### **Name Change**

Member Richard Moss stated that he supported having another university in Utah County that it would be good for the area as well as the state.

Motion was made by Member Richard Moss and seconded by Member Mark Cluff to support.

Member Cluff commented on the need for a university in Utah County as local enrollment at BYU continues to drop. His only concern is that we need more of a university status at UVSC. The students that are benefitted by UVSC may not have their needs met in the future as the escalation of the requirements become more difficult. There is a need for junior college as well in Utah County.

Member Bill Colbert commented that he supports the principal, however, he did not feel it is the Board's business to deal with it.

Member Teresa Theurer commented that this comes with quite a price tag of \$10 million one time funding. She noted that it would appear that this would make our situation with concurrent enrollment worse.

Substitute motion was made by Member Teresa Theurer and seconded by Member Bill Colbert to take no position. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Roberts and Theurer voting in favor; Member Moss opposed; Members Burningham, Mackey and Sadler absent.

### **SB 128 - State Government Law Revision - Withdrawal from Education Compact**

Motion was made by Member Dixie L. Allen and seconded by Member Thomas Gregory to support. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Burningham, Mackey and Sadler absent.

### **SJR 11 S1 - Resolution on the Appointment of the State Superintendent**

This has been amended instead of the Superintendent being appointed by the Governor with consent of the Senate it is being appointed by the Governor with the consent of the State Board of Education.

Motion was made by Member Mark Cluff and seconded by Member Thomas Gregory to continue to oppose. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Burningham, Mackey and Sadler absent.

### **HB 313 - Administration of Medication to Students Amendments**

Motion was made by Member Dixie L. Allen and seconded by Member Thomas Gregory to take a position of support. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Burningham, Mackey and Sadler absent.

### **HB 360 - Orderly Termination Act Amendments**

Motion was made by Member Laurel O. Brown and seconded by Member Dixie L. Allen to take a position of support. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Burningham, Mackey and Sadler absent.

### **HB 364 - Public School Textbook Evaluation**

Motion was made by Member Teresa L. Theurer and seconded by Member Laurel O. Brown to take a position of unnecessary.

Member Thomas Gregory offered an amendment to the motion to add a comment that this is beyond the purview of the legislature this is authority Constitutionally granted to the State Board of Education. Comment was accepted by Members Theurer and Brown..

Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Burningham, Mackey and Sadler absent.

#### **SB 56 - Teacher Association Amendments**

Motion was made by Member Teresa L. Theurer and seconded by Member Debra G. Roberts no position. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Burningham, Morrill and Sadler absent.

#### **SB 57 - High School Graduation Amendments**

Motion was made by Member Teresa L. Theurer and seconded by Member Dixie L. Allen to oppose.

Carol Lear commented that if the ACT is used as a post graduation benefit, it needs to be eligible for fee waivers no matter how many times a student wants to take it. ACT has also indicated they do not want to be in the exit exam business.

Motion failed with Members Allen, Brown, Gregory, Morrill, Roberts and Theurer voting in favor; Members Cluff, Jensen and Moss opposed; Members Burningham, Mackey and Sadler absent.

Member Mark Cluff commented that this is a good step toward competency not just seat time and he sees it growing over time.

Member Richard Moss commented that it would give an option to the family and student if they want to receive a diploma.

Member Teresa Theurer commented that if we did that we would need to take out all other requirements for any student.

Member Dixie Allen commented that it is important to move toward competency, but this is not the best way to do it. The UBSCT or the ACT is not a good test of competency for a student. If it is a good test for competency then we should use it for all students. The UBSCT is an eighth grade completion test.

Motion was made by Member Thomas Gregory to support the concept of competency based alternatives to high school education, but are opposed to this particular bill. There being no second the motion died.

#### **SB 81 - Home School and Extracurricular Activity Amendments**

Motion was made by Member Teresa L. Theurer and seconded by Member Thomas Gregory to oppose.

Member Tom Gregory commented that he is a sports official and an indirect employee of the Utah High School Activities Association and therefore may have a conflict of interest in this. He further commented that the Utah High School Activities Association is not established by the legislature or the State Board, it is its own private

organization to which schools just happen to belong, and the legislature is now trying to dictate to a quasi private organization whose membership is paid entirely by non government funds.

Member Mark Cluff spoke in favor of the motion, but doing so reluctantly. He agrees that there are issues with this that can come about within schools. He has reviewed the Handbook that is online and did not see charter schools mentioned at all.

The Board requested a copy of the Utah High School Activities Association Handbook.

Following further clarification, motion to oppose carried with Members Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Allen, Burningham, Mackey and Sadler absent.

### **SB 111 S1- Free Exercise of Religion Without Government Interference**

Motion was made by Member Thomas Gregory and seconded by Member Teresa L. Theurer to take a position of unnecessary. Motion carried with Members Cannon, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, and Theurer voting in favor; Members Allen, Brown, Burningham, Mackey, Roberts and Sadler absent.

### **SB 133 - Local School Board Public Hearing Requirements**

Motion was made by Member Teresa L. Theurer and seconded by Member Bill Colbert to support. Motion carried with Members Cannon, Cluff, Colbert, Gregory, Jensen, Morrill, Moss and Theurer voting in favor; Members Allen, Brown, Burningham, Mackey, Roberts and Sadler absent.

### **SB 161 - Hunting License Amendments**

Motion was made by Member Laurel O. Brown and seconded by Member Richard Moss to watch. Motion carried with Members Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Allen, Burningham, Mackey and Sadler absent.

Member Laurel Brown expressed appreciation to all the staff for their work with the legislature.

### **HB 77 - High School Diploma Amendments**

Member Mark Cluff commented that HB 77 was put on hold by the committee which means it is basically dead, and questioned if anyone knew why.

Carol Lear reported that it is not dead. Representative Holdaway is continuing to work with committee members and others to try to come up with something that he is comfortable with and the committee members could support.

Member Tom Gregory reported that he was at the committee meeting during the discussion of HB 77 and there was a distinct disinterest in allowing the State Board to make the rules. He felt it would be appropriate for the Board to take action to send a formal letter from the Board asking them to please make sure it gets back on the agenda, we agree with the sponsor and are in full support of the bill. We support the idea of a high stakes test and we are willing to work with the legislature because there are parts of the bill that must pass in order to keep things in their

right and proper state.

Motion was made by Member Thomas Gregory and seconded by Member Mark Cluff that a letter be sent relative to HB 77, High School Diploma Amendments per statement above. Carol Lear voiced caution noting that Representative Holdaway knows what the Board wants, and he is truly trying to work this through, whether the committees demeanor represented that accurately or not. A letter could do more harm than good because there were definite committee members who would prefer excluding students from getting a diploma.

Substitute motion was made by Member Debra G. Roberts and seconded by Member Bill Colbert to send a letter to Rep. Holdaway that he can use it at his discretion. Motion carried with Members Brown, Cannon, Cluff, Colbert, Gregory, Jensen, Roberts and Theurer voting in favor; Members Allen, Burningham, Mackey, Moss and Sadler absent.

Member Bill Colbert requested that in future years when the Board receives lists of bills to take positions on that staff notify the legislator that their bill is coming up for discussion and give them an opportunity to explain the purpose of their bill, and the basis behind it.

#### **HB 184 - Human Resources**

Motion was made by Member Laurel O. Brown and seconded by Member Teresa L. Theurer to support. Motion carried with Members Brown, Cannon, Cluff, Colbert, Gregory, Jensen, Morrill, Roberts and Theurer voting in favor; Members Allen, Burningham, Mackey, Moss and Sadler absent.

#### **HB 144 - School District Superintendent Retention Elections**

Motion was made by Member Laurel O. Brown and seconded by Member Debra G. Roberts to oppose. Motion carried with Members Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Allen, Burningham, Mackey and Sadler absent.

#### General Consent Calendar

Motion was made by Member Teresa L. Theurer and seconded by Member Laurel O. Brown to approve the General Consent Calendar as presented. Motion carried with Members Brown, Cluff, Colbert, Gregory, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Allen, Burningham, Mackey and Sadler absent.

##### 1. Minutes of Previous Meeting

Minutes of the Meetings of the State Board of Education held January 11, 2006 and January 22, 2007.

##### 2. Contracts

The following Contracts were approved:

(A)Department of Administrative Services, DFCM. \$49,585. 1/1/07-6/30/07 - Amend. - Fed.

To renew the operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Services for the Deaf and Hard of Hearing located at 5709 S 1500 W, Taylorsville, UT.

(2) Department of Natural Resources. \$23,000. 1/1/07-6/30/07. - RECEIVABLE, Fed.

To have performed energy audit reviews of plans and blueprints on approximately 15 schools (High schools, Middle schools and Elementary schools) for Special Projects Grant R804511.

(For complete details of the contracts see General Exhibit No. 10150)

3. Foreign Exchange Students, R277-612

Legislation enacted during the 2006 Legislative Session provides for a number of foreign exchange students to be counted for purposes of apportioning state monies beginning July 1, 2007.. The law requires that the State Board of Education make a rule to administer the cap for the program for which funding begins July 1, 2007. The rule was approved by the Board on second reading at the January 11, 2006 meeting. There have been no substantive changes to the rule since that time. The Board approved R277-612, Foreign Exchange Students on third and final reading. (For complete details see General Exhibit No. 10151.)

4. Licensing Routes, R277-503

R277-503 Licensing Routes, was adopted by the Board on March 3, 2006. Changes to the rule resulted in an increase in requirements for certain licenses and endorsements. The effective date provided in the rule for these changes was less than one year from the date of the announcements. This resulted in a conflict with 53A-6-106 which states that no increase in requirements may become effective sooner than one year after the changes are announced.

A decision was made to postpone implementation of the rule until the required notification period of one year had elapsed. In the meantime, it also became clear that the wording of the rule as adopted resulted in an overly broad application of the intent of the rule. The Utah State Office of Education received substantial comment from the field about the effects of the rule. Staff held numerous discussions with stakeholders relative to the rule, and convened a representing group to gather information relative to appropriate modifications that might be made to the rule.

The primary changes in the rule are intended to ensure that the statutory requirement for effective dates is met, and that the application of the new requirements for testing is constrained to those areas specific to NCLB. Further amendments to the rule were made by the Board at their January 11, 2006 meeting. The Board approved the rule on second reading. There have been no substantive changes to the rule since that time. The Board approved R277-503, Licensing Routes on third and final reading. (For complete details see General Exhibit No. 10152.)

5. Teachers' Supplies and Materials Appropriation, R277-549

Current board rule is silent on the issue of ownership of supplies and materials purchased with state funding. The Utah State Office of Education has fielded several inquires as teachers move from one district or school to another. The amended rule provides:

- Clarification to the definition of "Classroom Teacher" to better outline who should receive the funds. Each year it is decided in legislation whether counselors and media support staff should be included. To best define "teacher" in this rule reference is made to the most recent legislation.

- Changes made to Line A in the “Distribution of Funds” to clarify how the count of full-time classroom teachers is obtained. USOE no longer uses the date of October 1 to extract the data for the appropriation so this has been updated to the current use of November 1 data. In an attempt to reduce human error USOE has automated the process and extracts the data from CACTUS.
- Line H was added to the “Distribution of Funds” section to clarify that all supplies and funds belong solely to the district or charter school. This will help prevent teachers from taking supplies purchased with the funds should they leave the job, thus preventing supplies/funds being transferred between districts/charters or being taken into private schools.
- Further amendments were made to the rule at the January 11, 2007 meeting including adding the words charter schools and Utah Schools for the Deaf and the Blind where appropriate.

The Board approved the rule on second reading. There have been no substantive changes to the rule since that time. The Board approved R277-459, Teachers’ Supplies and Materials Appropriation on third and final reading. (For complete details see General Exhibit No. 10153.)

6. Educator Licensing Requests for Temporary Authorizations

Requests for Temporary Authorizations as submitted by the school districts were approved by the State Board of Education. (For complete details see General Exhibit No. 10154.)

7. USBE Annual Calendar

The Utah State Board of Education Annual Calendar for 2007. This is provided for information to the Board. (For complete details see General Exhibit No. 10155.)

8. 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. 10156.)

9. List of Applicants for Licenses

The list of applicants for initial and renewal licenses was approved by the Board as presented. (For complete details see General Exhibit No. 10157.)

10. Claims Report

The Claims Report in the amount of \$246,216,525.94 for January 31, 2007 was approved by the Board as presented. (For complete details see General Exhibit No. 10158.)

Executive Officer Report

Superintendent Patti Harrington presented the following items of information

Reviewed meetings and visits expounding on the meeting with House Republican Leadership discussing where resources should be established. She listed: 1) compensation for teachers. There was a great dialogue as to whether this should go out as one weighted pupil unit or a line item. There is a split among House Leadership in this regard. They had dialogue relative to a weighted student unit where a child would have his/her money that would travel with them wherever they may go. 2) Pro Excel. Helping them understand what we mean with Pro Excel. This

was a good give and take dialogue.

The Southwest Education Development Center is interested in getting one software management system in the state. We are still divided on this in the state. There are some using their home grown products, some using Digital Bridge, and others. Also, for electronic manuscripts that can come and go quickly among those.

Deputy Superintendent Ray Timothy noted that at one time the State Office was in the process of developing a single system for statewide use and it was legislated that it was not our role and it needed to be competitive bid. They felt each district should have the opportunity to pick whichever system they wanted. This recognizes that this is an inefficient way of operating.

Superintendent Harrington indicated that there is intent language indicating that we will do this as a state and with someone that has developed their product from Utah. This will meet the needs with higher education as well.

Superintendent Harrington presented the Charter School Audit Summary and the Charter School Directors plans and time line for charter schools.

Superintendent Harrington shared a letter from Auditor General John M. Schaff relative to the legislatures request that they review the accounting and management controls of a sample of school districts including both Davis and Weber School Districts in light of recent alleged fraudulent activities.

Superintendent Harrington shared a letter from the United States Department of Education notifying us that our plan for highly qualified teachers has been approved.

(For complete details of the Executive Officer Report see General Exhibit No. 10159.)

Associate Superintendent Patrick Ogden distributed the Public Education Appropriations Subcommittee's priorities for funding. Mr. Ogden reviewed the listing noting that ProExcel is ranked #16, the ongoing teacher support #15, the 4%wpu is 21<sup>st</sup>, and

U-PASS Assessment funding is last. He indicated that this is out on the Internet. (For complete details see General Exhibit No. 10160.) It was later noted that the list was not in priority order.

Motion was made by Member Teresa L. Theurer and seconded by Member Debra G. Roberts to adjourn. Meeting adjourned at 5:15 p.m.