

MINUTES

March 7, 2007

Minutes of the meeting of the State Board of Education held March 7, 2007, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 10:20 a.m Chairman Kim R. Burningham 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 Greg W. Haws
Member Michael G. Jensen
Member Cyndee Miya
Member Denis R. Morrill
Member Richard E. Moss
Member Josh M. Reid
Member Debra G. Roberts
Member Richard Sadler
Member Teresa L. Theurer

Members Randall Mackey and Marlon Snow 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:

Laura Rogers, The Valley Journals
Nicole Stricker, Salt Lake Tribune
Lynze Wardle, Standard Examiner
Charlotte Starks, Coalition of Minorities Advisory Commission
Andrea Bos, Davis School District
Robinette Bowden, Davis School District
Jane Bowden, Davis School District
Richard Call, Davis School District
Lori Gardner, Schools to Watch
Christine Hubey, Schools to Watch
Margie Coombs, Schools to Watch
Linda Mariotti, Granite School District
Marshal Garrett, Superintendent, Logan City School District

Dan Johnson, Logan City School District
Kristie Cooley, Logan City School District
Ann Geary, Logan City School District
Ronda Newbold, Sunset Ridge Middle School
Catherine Jensen, Sunset Ridge Middle School
Jeff Jensen, Sunset Ridge Middle School
Carl Jensen, Sunset Ridge Middle School
Randy Brinkerhoff, Jordan School Board
Frank Shaw, Jordan School District
Barry Newbold, Superintendent, Jordan School District
Connie Steffen, Office of Legislative Research and General Counsel
Danny Schoenfeld, Legislative Fiscal Analysts Office

Welcome and Student Achievement Spotlight

Vice Chairman Janet Cannon called the meeting to order and indicated that Chairman Burningham would be arriving later in the meeting.

Board Member Denis R. Morrill lead the Board in the Pledge of Allegiance.

Board Member Debra G. Roberts offered opening remarks beginning with expressing appreciation to the State Legislature for their support in terms of finance and other great things that happened during the past session. She shared that last definition of a politician: “A person primarily interested in political offices from selfish or other narrow, usually short run, interests.” Versus, the last definition of a statesman: “One who exercises political leadership wisely and without narrow partisanship.” She stated that it is her hope that we, as Board Members, and those in our legislature will try to be statesmen or women. She then offered a prayer.

Schools to Watch

Lori Gardner, Park City School District and Christine Huley, Granite School District presented information on the Schools to Watch program. Dr. Ray Timothy, Deputy Superintendent then announced Utah’s first three Schools to Watch schools.

The Board then recognized Syracuse Jr. High School, Davis School District; Sunset Ridge Middle School, Jordan School District; and Mount Logan Middle School, Logan School District as a “school to watch” in the Schools to Watch program by the National Forum to Accelerate Middle-Grades Reform Representatives from the schools and the districts were presented Excellence Certificates.

Board Standing Committee Reports

Curriculum Committee

Member Teresa L. Theurer, Chairman of the Curriculum Committee presented the following recommendations from the Committee:

Adult Education/Corrections Education

Indexing of the WPU

Adult Education services are a legislative mandate. As of the 2000 census, 21,000 adults in Utah did not have a high school diploma or GED. Presently 49,895 adults are active job seekers with the Department of Workforce Services, of whom 9,222 (18.4%) do not have a diploma or GED. An additional 8,504 individuals receive “intensive” services from the Department of Workforce Services of whom 2,745 (32.3%) lack a diploma or GED. In 2005, 13.4% of Utah birth mothers did not have a diploma or GED. Education within the prisons and jails reduces the cost of new crimes by over \$13 million per year in addition to reducing victim costs of new crimes by over \$14 million per year. This past year, 914 school district employees (216 full-time 698 part-time) provided educational opportunities to 27,357 adults ages 16-60+ in 39 school districts, two prisons, 21 jails, and 14 community-based organizations. As a result of their efforts 3,095 high school diplomas and 1,265 GEDs were awarded. In addition, 2,313 individuals continued their education, enrolling in a post-secondary institution or training program, and 2,958 individuals were successful in entering the workforce. Legislative funding for adult education and corrections education providers is not indexed to the WPU, yet district-employed staff is entitled to the same benefits as the K-12 employee. Without indexing, the ability of the districts to maintain or increase the quality and intensity of educational services is jeopardized.

The Curriculum Committee reviewed and discussed support of a legislative building block for indexing adult education and corrections education programs to the WPU. (For complete details see General Exhibit No. 10167.) Member Theurer reported that it was also the recommendation of the Committee that these two groups be considered in the K-16 Alliance work. Further, that students successful in these areas be included in the student achievement spotlight.

The Curriculum Committee endorsed a building block for indexing adult education and corrections education programs to the WPU and moved that the Board endorse the recommendation and direct staff to begin the process of developing a building block plan. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts, Sadler and Theurer voting in favor; Chairman Burningham absent.

Principals' Literacy Institute

The Curriculum Committee received a report on the Principals' Literacy Institute, sponsored by the Utah State Office of Education. The Institute was initiated in the Fall of 2001. The purpose of this yearly institute is to: (1) Address the current role of an elementary principal; (2) Enhance the principal's knowledge of scientifically-based literacy instruction; (3) Support Utah's expectation that all elementary students will achieve literacy proficiency; and (4) Support emerging research indicating that principals greatly influence student, teacher, and school success.

It was noted that the Utah State Office of Education receives 100 or more applications for Institute participation. Approximately 50-60 principals are selected yearly. Over 300 Utah principals have currently participated in the Institute. (For complete details see General Exhibit No. 10168)

The Committee received the report as information and moves that the Board receive the report. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts, Sadler and Theurer voting in favor; Chairman Burningham absent.

Finance Committee

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

Annual RDA Report

Utah law requires that each redevelopment agency that adopts a redevelopment (blight-based) or economic development project after June 30, 1993, to create a Taxing Entity Committee (TEC). It has been the policy of the Board since January 2001 to receive an annual report on RDA activity and its impact on school funding from its TEC representative.

Each TEC is composed of:

- two school district representatives appointed by the local school board,

- one representative appointed by the State Board of Education (Larry Newton was appointed by the Board in June 1993 and reappointed in October 2003 with Cathy Dudley appointed as an alternate),
- two representatives from the county
- two representatives from the city, and
- one representative from the balance of all other taxing entities within the project area.

A TEC performs the following duties:

- negotiates with the development agency concerning the draft project area plan;
- approves or disapproves multi-year project area budgets;
- approves exceptions to the limits on the value and size of RDA projects;
- approves exceptions to the statutory percentages of tax increment and the term that tax increment is paid to the agency; as well as other approvals and consents required or allowed under the law.

(For complete details of the report see General Exhibit No. 10169.)

The Finance Committee received the report and moves that the Board accept the report. Motion carried with Members Allen, Brown, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts, Sadler and Theurer voting in favor; Chairman Burningham absent.

Utah Schools for the Deaf and the Blind Funding

Unlike school districts and charter schools, funding for the Utah Schools for the Deaf and the Blind (USDB) is not based on student counts or enrollments. Rather, USDB is funded as a state agency with an appropriation of Uniform School Fund, federal funds, trust funds, and other sources of revenue.

The Committee discussed whether the USDB funding could be based upon a weighted pupil unit or similar funding mechanism and whether or not some USDB students are double counted. (For complete details see General

Exhibit No. 10170.)

Member Cluff noted the difficulties of the schools in obtaining a new building in Salt Lake City as well as in the Alpine School District.

A goal is to look at equalizing funding around the state for buildings for all children not just those that live in a school district. Additionally, should the USDB be a line item or indexed to the WPU. There will be more discussions, and the Schools for the Deaf and the Blind will also be looking at this.

Student Enrollment Options, R277-437

Senate Bill 122, Administrative Rules Reauthorization, effectively repeals State Board Rule R277-437, Student Enrollment Options as of May 1, 2007. The rule was written to implement the provisions of 53A-2-207 through 213 which direct the Board to develop rules for student enrollment options.

The law directs the Board to “adopt rules defining school capacities and average daily membership thresholds for use in determining whether a school must be open for enrollment of nonresident students.” Nonresident students are defined by rule as those attending or seeking to attend a school other than the school of residence.

The Committee discussed what thresholds the Board should set for use in determining whether a school must be open for enrollment of students living outside of the school’s boundaries. Capacity is set too low in current rule and open enrollment should be allowed at all schools.

(For complete details see General Exhibit No. 10171.)

The Committee gave staff direction in re-drafting R277-437, Student Enrollment Options relative to different avenues of receiving funding.

Adequate Funding of Public Education in Utah

This item was not discussed and will be discussed at a future meeting.

Law and Policy Committee

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

Education Vouchers - Funding and Procedures, R277-606

Member Roberts began by complimenting Carol Lear, Larry Shumway and Travis Rawlings for the work and time that was put into this rule.

The 2007 Utah Legislature passed H.B. 148, Education Vouchers, which requires the Board to make rules outlining specific requirements of the bill, including responsibilities for parent/students, public schools, eligible private schools that accept Education Vouchers from eligible students, and the Board in providing choice for parents who choose to have their children served in private schools, and in providing accountability for the citizenry in the

administration and distribution of the Education Voucher funds.

The Committee reviewed the new rule with regard to funding and procedures. (For complete details see General Exhibit No. 10172.) They determined this needed more time, even with the phenomenal work that has been done, to craft it in a way that is appropriate to make it something that will be effective and will give both fairness and appropriate accountability to it. We need to look further at such things as income eligibility as well as other issues. We would like each member of the Board to have a current copy of the rule and ask that if board members have concerns they take them to Larry Shumway.

No action was recommended by the Committee.

Chairman Burningham chaired the remainder of the meeting

Chairman Burningham further commended staff in trying very hard to get this rule prepared in the draft format that was presented and in getting the application process developed.

State Board of Education Bylaws Revision

In the January Board meeting, the Board made revisions to its Bylaws with the exception of adding a section regarding appointment of an Interim State Superintendent. The State Board of Education Bylaws are being amended with the following proposed changes:

- Section VII. Appointments, add Section D, dealing with the appointment of an Interim State Superintendent.

The Committee reviewed the recommended amendments but because of time constraints they did not take any action relative to the Bylaws. (For complete details see General Exhibit No. 10173.)

However, in their discussions the Committee made the following notations:

- Page 4 relative to the Utah Schools for the Deaf and the Blind.
- Page 12 the new D - there was consensus from the Committee relative to this language.
- Page 13, I 2. Relative to the Schools for the Deaf and the Blind.
- Page 14, a name change by statute from Rehabilitation Services Advisory Council to State Rehabilitation Council.
- Page 15, top of the page c, to add the additional addendum presented by Member Gregory.

The Bylaws will come before the Board again in March.

School Trust Lands Presentation

There was not enough time to go through the information and this will come back to the Committee at a later time. They did talk about some issues that Margaret Bird will prepare for the Board Members attending the NASBE Legislative Conference to take with them as they visit our congressional delegation to reemphasize the importance of trust lands and protecting the needs of our children through those trust lands.

Member Richard Sadler commented that next Thursday those attending the Legislative Conference will participate in the regular NASBE agenda until noon and then get together for lunch and plan a strategy for the afternoon.

Public Participation/Comment

There were no requests for participation or comment.

Executive Session

Motion was made by Member Laurel O. Brown and seconded by Member Debra G. Roberts to move into an Executive Session for the purpose of discussing personnel items. The Board was polled and by unanimous consent of those present [Greg Haws absent] the Board moved into an executive session at 11:25 a.m.

Motion was made by Member Laurel O. Brown and seconded by Vice Chairman Janet A. Cannon reconvene into open meeting. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert, Haws, Jensen, Morrill, Roberts, Sadler and Theurer voting in favor; Members Gregory and Moss absent. The Board reconvened at 12:00 p.m.

Utah Professional Practices Advisory Commission Recommendations

Motion was made by Member Denis R. Morrill and seconded by Member Mark Cluff to adopt the recommendation of the Utah Professional Practices Advisory Commission in Case No. 06-786 and revoke, based upon default, the educator license of a former teacher in the Davis School District. The action is taken as a result of the educator using school equipment to view pornography and storing pornographic videos in a locked closet at the school. The educator was also arrested by the Internet Crimes Against Children Task Force on September 10, 2006, for downloading child pornography. It was noted that several verbal and written contacts have been made with the educator prior to recommending this default action. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert, Haws, Jensen, Morrill, Roberts, Sadler and Theurer voting in favor; Members Gregory and Moss absent.

(For complete details see General Exhibit No. 10174.)

Utah Schools for the Deaf and the Blind Institutional Council

Motion was made by Member Richard Sadler and seconded by Member Dixie L. Allen to appoint Shelly Bridgewaters and Lauri Buzianis to the Utah Schools for the Deaf and the Blind Institutional Council. Terms to expire July 2008. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Roberts, Sadler and Theurer voting in favor; Member Moss absent.

Nominating Committee for the Board of Trustees of the School and Institutional Trust Lands Administration

Motion was made by Member Richard Sadler and seconded by Member Dixie L. Allen to appoint Dixie Andrus to the Nominating Committee for the Board of Trustees of the School and Institutional Trust Lands Administration. Term to expire March 31, 2010. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert,

Gregory, Haws, Jensen, Morrill, Roberts, Sadler and Theurer voting in favor; Member Moss absent.

Charter Schools, R277-470, Preliminary Draft

An audit on charter schools performed by the State Auditor General's office gives directive to the State Board of Education and to the State Charter School Board for increasing its oversight and responsibility for charter school operations. In light of the audit, the USBE's charter schools rule is in need of revision to address:

- Appeals from charter schools resulting from the decisions of the State Charter School Board
- Ethics in governance and contracts
- Language that might be improved

In order to address these needs, in its February 2007 meeting the State Board of Education designated four Utah State Board of Education members and Superintendent Harrington to meet with representatives of the State Charter School Board to revise the Utah State Board of Education rule regulating charter schools. Representatives of the Utah State Board of Education include Mark Cluff, Denis Morrill, Randall Mackey, and Laurel Brown, with Laurel Brown as chair of the committee. Representatives of the State Charter School Board include Julie Adamic, Brian Allen, and John Pingree.

Member Laurel Brown reported that the group met yesterday and focused on the just the appeals process, there is still much work that needs to be done in terms of the broader areas of the charter school rules. It is intended that the Board accept this portion conceptually.

Member Brown reviewed the document. (For complete details see General Exhibit No. 10175.)

Member Mark Cluff indicated that there was one item left off under the Appeal Criteria and Procedures Section A, and that was the denial of a charter. Member Cluff suggested that all numbers under A should begin with Recommendation, and an additional number indicated a denial of a charter.

Member Denis Morrill commented that there really is no right to an appeal and what this is doing is a "gift" and we can give as much or as little as we want. The Committee took the approach to list what we would give rather than what we will not give.

Member Morrill further clarified that language to read: An appellant who has been denied a charter by the State Charter School Board.

Member Mark Cluff indicated that the Committee talked about any charter school applicant that has action taken by the State Charter School Board are eligible

Member Brown clarified that it has to be an entity that has received threshold review and approval to move to the next level, but not include those that did not make the threshold.

Member Bill Colbert pointed out that on C. (7) it should read recommendation not decision.

Member Brown noted a correction under C(3) change SCSB to USBE.

Member Bill Colbert questioned if the hearings would be public or closed. Carol Lear indicated that hearings are generally closed. It was noted that it should specify if the hearings would be open or closed so there is no question.

Scott Smith, Chairman of the State Charter School Board expressed appreciation for the opportunity to work together on this. He feels we came to a good decision.

Motion was made by member Laurel O. Brown and seconded by Member Denis R. Morrill to accept this concept draft and to move forward. Motion carried unanimously.

Executive Officer Report

Chairman Burningham announced that Superintendent Harrington's Executive Officer Report contained items dealing with charter schools and while the State Charter School Board members and staff are here she will present that part of her report at this time.

Dr. Harrington presented a rubric which the State Charter School section has used to determine who is meeting the basic criteria. There is a cut off point of 70%, and the top seven schools listed on the rubric are clearly getting ready to open as a charter school.

Dr. Harrington reported that based upon legislation we have a goal to increase the number of charter school students by 5,000. If you add up the top seven schools listed, there are more than 5,000 students. The State Charter School Board will have to determine the prioritization.

Dr. Harrington reviewed some proposed subcommittees that the State Charter School Board is putting into place. She noted that they are addressing many of the issues that are related to charter schools. One committee is the Communications Committee which she will participate in as well as a member of the State Board. This is still in preliminary discussion at this time.

(For complete details of this report see General Exhibit No. 10176.)

Member Mark Cluff commented that the legislation with the 5,000 student limit also includes local school districts authorizing. He questioned if there was a way we are keeping in touch with districts to see how many they might be authorizing. Brian Allen, State Charter School Board Member, noted that the number in the legislation is a cumulative number and the base number is actually a number that talks about the cumulative number of approvals for students. Our experience has been that we typically fall short of that. He indicated that it was not the desire of the State Charter School Board to hit that, it is not a goal, but a ceiling.

Scott Smith, Chairman of the State Charter School Board, responded that Ms. Burns has sent a letter to all of the districts inquiring who might be looking at charters.

Vice Chairman Janet Cannon commented that when charter schools first came into existence it was the desire of the parents to have smaller class sizes. She suggested that there be a study of the success of charters in being

able to provide the smaller class sizes and the effects on student performance. This may help with our desire for smaller class sizes in the regular public schools.

Member Mark Cluff commented that as a parent of a student in a charter school the charter school goal was that 25 students would be the maximum. In his daughters fourth grade classroom there are 21 students. In the local schools, the class sizes are 35 students.

Lunch Discussion with the State Charter School Board

The Board met with some members of the State Charter School and informally discussed the following issues:

- What happens if a charter school fails and the need to have something in place to deal with this.
- Why students jump back and forth between charter schools and regular public schools and the disruption this causes.
- What happens and what is in place for closing a charter school.
- What is available to help charter schools that are in trouble.
- Charter School participation in high school activities. The need for a question in the charter application relative to whether they anticipate participating in activities with the local school district.

State Charter School Board Member Brian Allen commented that we have a great public education system in Utah. The charter school legislation was born out of a sense of frustration by parents wanting to be heard. He indicated that one of his hopes he had when he ran the charter school legislation was that we would be able to free some of the schools from some of the things [rules and regulations] so they can try to do some things. He did not feel this has been done much because we have a strict core. We need more flexibility in the system to address the needs of the individual students.

Mr. Allen commented that he is pleased with the relationship between the two boards. He is hopeful that as time goes on we will be able to allow schools, not just charter schools, but all schools, to have more flexibility, more autonomy in directing their schools and to provide incentives to do innovative things . As he has traveled around the country there is a revolution coming in public education, and there will be fundamental systemic changes as we wrestle with these changes.

Member Mark Cluff questioned if the State Charter Board has had any discussions relative to the growth at charter schools and if we continue the mode of parents unite and petition for a charter or looking at creating satellite charter schools where a company can come in and create several charter schools.

State Charter School Board Chairman Scott Smith commented that Representative Bigelow's bill addressed the need to come up with a definition of what a satellite school is and is it something that is approvable. He indicated that if there is a good model that works and has done some great things and they want to go into an area that needs a

school, this is a low risk venture because they know what they are doing and have the process. There have been concerns with large companies, but they help novice parents who have ambition but need direction. However, there is a concern that national companies move in and open fifteen or twenty schools, start their own district and run the schools. He did not see this happening in Utah, but at what point do we say this is not a unique model. If we have a satellite open in an area that truly needs it, but because of the economics of the area the parents do not feel they have the ability or means to open a school, and we have someone willing to take a risk - great. We have not come up with any solution other than looking at these on an individual case basis. Member Mark Cluff commented that he hoped we can keep parents in control as much as possible rather than a large company.

Legislative Session - Review of 2007

The 2007 General Legislative Session concluded February 28, 2007. The Board has been actively involved throughout the session taking positions on particular pieces of legislation. They met regularly with legislators and educational stakeholders to advocate support for public education in the state of Utah.

Deputy Superintendent Ray Timothy presented final actions taken by the 2007 Legislature relative to public education and reviewed the actions needed by the Board, State Charter School Board, Local Boards/Districts and the Utah State Office of Education. (For complete details see General Exhibit No. 10177.)

Deputy Superintendent Timothy also reviewed the bills that failed in the legislature and what we need to do for next years session to try to get some of these bills through. (For complete details see General Exhibit No. 10178.)

Dr. Timothy identified three specific bills that staff would recommend the Board consider asking the Governor to veto

H B 202 - Medical Recommendations for Children

Carol Lear, School Law and Legislation Coordinator, reported that two former Governors have vetoed a variation of this bill. Every pediatric and medical association has actively opposed this bill for six years. It still makes child abuse reporting conditional and discourages communication between the school and parents. Further, there is also a constitutional issue, because this is clearly in the Board's purview.

Motion was made by Member Denis R. Morrill and seconded by Member Dixie L. Allen to recommend to the Governor to veto the legislation based on the fact that the Board has a rule covering this, and the reasons stated by Ms. Lear. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Mackey and Sadler absent.

H B 236 S7 - Student Clubs Amendments

Deputy Superintendent Timothy noted this is one that we feel is unnecessary. Carol Lear reported that a lot of the language in the bill is constitutionally over-broad, almost impossible to enforce or discern what the meaning is. The bill allows for curricular or non-curricular clubs and suggests that non-curricular clubs are not under the purview

of the school. It further lays out prescriptive requirements that schools impose on non-curricular clubs. This would, legally, put the non-curricular clubs back under the purview of the schools with the liabilities.

Member Tom Gregory commented that this legislation is not the purview of the legislature, but that of the Board.

Motion was made by Member Thomas Gregory and seconded by Member Richard Moss to request the Governor to veto this legislation. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Mackey and Sadler absent.

H B 393 -Truth in Bonding

Dr. Timothy reported that this legislation went through both houses without our office being asked for a fiscal note or any comment. It is problematic in the fact that it could impact the sale and issuance of bonds if you have a successful bond election. If this were vetoed it would allow time for input from the education community and the bonding/finance community for future consideration by the legislature. He noted that this legislation was completely missed by us.

Associate Superintendent Patrick Ogden explained that the bill requires a notice be placed on a bond proposal that has very explicit language: "Passage of the proposition means that a tax on a [average value of a residence and the taxing entity] residence would increase X number of dollars per year." It would be better if it said "approximately" X number of dollars. By listing an exact amount you are, potentially, setting yourself up for a lawsuit if in fact that value does not materialize.

Motion was made by Member Bill Colbert and seconded by Member Richard Moss to request the Governor veto this bill with the explanation that our opposition is due to the nature of the disclaimer having to specify an exact impact to the taxpayer and that is unfeasible. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Mackey and Sadler absent.

Voucher Referendum

Chairman Burningham commented that the issue of a referendum on the voucher bill is hovering around us. Some thought there should be a vote by the Board to see if there was support for that position. However, because of mis-communications no notice of that was put on the agenda. Therefore, it cannot be brought up. It could possibly be put on the agenda for the April meeting, and he suggested it be placed there.

Chairman Burningham made it clear that if the matter of the referendum and support or non support for it were on the agenda today he would be voting for support of the referendum. The voucher issue is an intense issue of great concern to him and he would like to see it go to a vote of the public. He indicated that the office needs to proceed in writing the rules to put the process forward as indicated in the law.

Member Teresa Theurer commented that she had hoped it would be on the agenda today, but she is in

support of a referendum. She reported that she was on a radio program yesterday, but made it very clear she was speaking for herself in support of such a referendum. As a Board we took a position of opposition to the voucher bill and it would be consistent with that to support the referendum.

Member Bill Colbert commented that if the day comes that the Board takes a vote on the referendum we may be slipping down a slippery slope which could cause consequences and would add credence to making the Board partisan.

Member Laurel Brown commented that she felt it would be appropriate for the Board to take a position in terms of, do we support a referendum. Do we support the concept of allowing the people of the state to vote on this very important issue. She would be in favor of having the Board be able to vote and indicated she would be in support of a referendum.

Member Debra Roberts commented that she concurred in the statement made by Member Brown indicating that whether you are for or against vouchers a referendum asking the people to speak is always appropriate when you have this type of issue. It should be the parents and taxpayers in the state making that decision.

Member Denis Morrill commented that he would support the referendum and support the Board taking a position. This is an education issue. The people of the state ought to have the opportunity to decide where their tax money is going.

Member Greg Haws commented that the only concern he has, was the article in the *Ogden Standard* listed the State Board of Education as one of the sponsors. However, he noted that we have no control over what goes into the newspaper. He commented he hoped this is not accurate and we need to dispel that. He felt it would be inappropriate and illegal for the office or board to sponsor. He indicated that the Chairman has done what he can do to indicate that the Board is not a sponsor, though we are part of the education community.

Member Mark Cluff commented that if the referendum passes it will stop the law and children will be hurt. Further, he is concerned if it has already happened, and hopes it will not happen, that the State Office is involved in any way in promoting or supporting or providing time on state time in support of this referendum. As individuals on their own time is okay.

Member Dixie Allen commented that she would like to see this go for a vote. She has written a couple of letters to the editor and has been on radio speaking against vouchers. She is not against private education only taxpayer dollars going to private education. She would like the voters to make the decision. She feels it is critical for our legislators to understand that it looks as if they held us hostage so they could get the voucher bill through – this is unfair. She would support the referendum.

Member Richard Moss commented that he agreed with what others have said about letting the people decide, but the people may have already spoken by electing their legislators to be our representatives on issues.

Member Bill Colbert commented that the referendum will be approved and adequate signatures will be gathered with or without the Board's support. If the referendum gets on the ballot and the people say they support vouchers will the Board then respect the will of the people at that point or if there will be other attempts to block the will of the people.

Member Teresa Theurer commented that it has been her experience on the Board that if it does go to the people and if they support it, the board will then support it.

Member Greg Haws commented that there still may be a state constitution issue and challenge.

Member Tom Gregory commented that bringing this discussion to a vote of the people will do two things to the state. It will be divisive among the educational and political communities. It will bring in lots of money from outside the state and who can spend the most money will win not based upon the merit of any argument. The argument will not do any good in the public. He did not like the public voting on an issue based upon sound bites and how much money is spent. He feels a better route for the Board to take would be legal action, although he is not in favor of it.

Superintendent Patti Harrington commented that she has had nothing to do with the referendum discussion or meetings nor has she directed anyone in the State Office to do anything with it. If it were to come to her knowledge that someone was involved on work time it would stop immediately. She is not aware of anyone in the office supporting the referendum movement at all during work time.

Carol Lear commented that she has been actively involved on her own time working on the referendum issue.

Associate Superintendent Patrick Ogden commented that there will be times when we will be asked to provide information and analysis.

Chairman Burningham responded that the office provides information to anyone and it is the job of the office to provide information when requested to do so.

Member Debra Roberts commented that she was told there was a fiscal note that was extremely high that was held until after the House vote.

Associate Superintendent Patrick Ogden responded that when we are asked for the fiscal note into a bill the fiscal note input spreadsheet only covers two years, the coming year and the next year. We have never really costed this out formally as to what it would cost when it is fully implemented. The fiscal note on the bill indicated it would cost \$9 million the first year and \$11 or \$12 million the second year. The legislature has in its rules that when it passes a bill that has financial impact for a year out from the budget year it has to include that amount in its current budget deliberations. They did budget the \$9 million impact for this year, but then added another \$3 million to cover the impact for the following year.

Vice Chairman Janet Cannon questioned that if a constitutional challenge would come on this issue who

would initiate it. Carol Lear responded that there is not an absolute answer to it. She generalized that the plaintiff could be from any corner, perhaps from a parent of a child that would have no opportunity to ever take advantage of this. A parent whose children have attended private schools and will never be able to have the advantage of participating in the voucher. A parent who has religious or moral objections to public money going to fund religion. The Board would be the defendant in such a lawsuit.

Chairman Burningham reported that he went to the Granite School Board at their request to talk about boards getting along and working together and the idea of a code of conduct. He expressed his gratitude to the Board for their congeniality and civility.

Budget Update

Associate Superintendent Patrick Ogden presented final budget actions taken by the 2007 Legislature relative to public education. (For complete details see General Exhibit No. 10179.)

Member Bill Colbert suggested that the Board formalize a thank you letter to legislators.

Chairman Burningham noted that he has sent a personal e-mail to all legislators and Superintendent Harrington and he have sent a joint letter of appreciation, as well as we will be putting out a press release. He indicated a letter will be sent on behalf of the board. Member Roberts also suggested that individual board members send letters to their representatives.

Member Tom Gregory queried how we, in a positive way, express our frustration that some of the programs funded were very much in line with the goals of the board. However, we do not seem to be any part of the legislative discussion relative to our top initiatives. How can we express our gratitude and at the same time ask them to listen to our priorities?

Member Dixie Allen commented that she had a conversation with her charter school representative and he indicated that what they want is change. We need to change our paradigm in public education. We are not listening and we need to start listening and figure out what it is they really are looking for. They are looking for public education to be more accommodating to parents. The voucher and charter school issues are because we are not listening to parents. We need to change what we are doing.

Carol Lear commented that the longer you spend talking and explaining, not just writing, and do some polite listening. She suggested Board Members spend time explaining the process the Board goes through in reaching its priorities and spending the money.

Superintendent Harrington expressed appreciation to the State Office legislative team for their diligent hard work during the legislative session.

General Consent Calendar

Motion was made by Vice Chairman Janet A. Cannon and seconded by Member Dixie L. Allen to approve

the General Consent Calendar as presented. Motion carried with Members Allen, Brown, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Members Mackey and Sadler absent.

1. Minutes of Previous Meeting

Minutes of the Meetings of the State Board of Education held January 31, 2007 February 7, 2007, February 16, 2007, and February 20, 2007.

2. Contracts

(A) Utah State Health Department. \$200,000. 10/11/06-6/30/07 - RECEIVABLE

To hire and house a Health Education Specialist to oversee the high school training program.

(B) Dynamic Internet Solutions LLC. \$495,798. 1/26/07-1/25/10.

To provide computer package/database for administration of USOE Child Nutrition Programs

© College Board Examination Board. \$74,518. 2/1/07-3/2/08. - Amend. - Fed.

To pay Advanced Placement (AP) test registration fees for low-income students.

(D) Nancy Hepler, Ph.D. \$34,300. 3/1/07-3/31/08. - Fed.

To conduct the evaluation and lead the evaluation team to meet federal requirements for the Integration of Schools and Mental Health Systems Grant award from the U.S. Department of Education. This grant will increase student's access to quality mental health care through integration of schools and mental health systems in Utah.

(For complete details of the contracts see General Exhibit No. 10180.)

3. Driver Education Programs for Utah Schools, R277-746

Driver Education Programs for Utah Schools, R277-746 was 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 rule was approved by the Board on second reading at the February 7, 2007 meeting. There have been no substantive changes to the rule since that time. The Board approved R277-746, Driver Education Programs for Utah Schools, on third and final reading. (For complete details see General Exhibit No. 10181.)

4. Pupil Accounting, R277-419

R277-419, Pupil Accounting was amended to include a section on 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. The amendment allows 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. The rule was further amended in the February 7, 2007 meeting to remove section R277419-3.A(3)(h). The Board approved the rule on second reading. There

have been no substantive changes to the rule since that time. The Board approved R277-419, Pupil Accounting on third and final reading. (For complete details see General Exhibit No. 10182.)

5. Educator Licensing Requests for Temporary Authorizations

Requests for Temporary Authorizations as submitted by the school districts were reviewed and approved by the Board. (For complete details see General Exhibit No. 10183.)

6. State Charter School Board Recommendations for Charter School Amendments

In its February Board meeting the state Charter School Board reviewed requests for amendments to the Reagan Academy.

The State Charter School Board recommends the following amendments to the Reagan Academy:

1. Changes to mission and purpose, streamlining governance structure
2. Parental complaint procedure for non-disabled students
3. Modifying employment of relatives policy

The State Board of Education approved the recommended amendments to the Reagan Academy Charter School (For complete details see General Exhibit No. 10184.)

7. Administrative Rule Review

Under provisions of 63-45a-9, U.C.A. 1953, all administrative rules shall be reviewed every five years. There may be minor non-substantive changes within these rules. The following rules be reviewed and approved:

R277-416	Experimental and Developmental Program
R277-507	Driver Education Endorsement
R277-503	Licensing Routes
R277-519	Educator Inservice Procedures and Credit

(For complete details see General Exhibit No. 10185.)

8. Utah Schools for the Deaf and the Blind Negotiated Agreement

At its January 24, 2007 meeting, the Utah Schools for the Deaf and the Blind (USDB) Institutional Council approved the USDB Negotiated Agreement. This agreement is negotiated annually between the USDB Administration and the USDB Education Association. It covers employment practices, salary schedules, etc.

The Board approved the Utah Schools for the Deaf and the Blind Negotiated Agreement for the School Year 2006-07. (For complete details see General Exhibit No. 10186.)

9. USBE Annual Calendar

The Utah State Board of Education Annual Calendar for 2007. (For complete details see General Exhibit No. 10187)

10. 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. 10188.)

11. Ratification of Employment

Kathleen Webb was ratified as an Educational Coordinator - Educational Technology Services in the Law, Legislation, and Educational Services Division.

12. Advisory Committees - Notice of Vacancies

The Board received notice of the following vacancies occurring on the respective State Board of Education Advisory Committee:

Coalition of Minorities Advisory Committee (CMAC)

Hispanic Representative

13. List of Applicants for Licenses

A summary of the list of applicants for initial and renewal licenses was approved by the Board. (For complete details see General Exhibit No. 10189.)

14. Claims Report

The Claims Report in the amount of \$209,934,173.74 for February 28, 2007 was approved by the Board. (For complete details see General Exhibit No. 10190.)

Executive Officer Report

Superintendent Patti Harrington presented the following items of information:

Dr. Harrington shared an e-mail received by David Sperry from the Los Angeles Unified School District relative to funding teachers and providing incentives to recruit teachers.

Dr. Harrington announced that Associate Superintendent Myron Cottam will be leaving us this week. He has taken a job as a Principal at a private school in Escalante. She expressed appreciation for his fine work.

Dr. Harrington welcomed Judy Park as a new Associate Superintendent over Data, Accountability and Assessment, and Debbie Swensen will be the new Assessment Director.

Dr. Harrington noted that the CD on technology is from Senator Stephenson.

Dr. Harrington reviewed a draft of Goals and Strategic Directions for the State Office.

Member Tom Gregory requested more information on the lap top demonstration school. Dr. Harrington reported that we have a generous donor who is willing to donate as much as a million dollars for a lap top demonstration school. He would like to keep it around the area of his development in the Orem area.

Dr. Harrington reviewed the requirements of successful district and school technology plans. She reported

that Senator Stephenson was very helpful in getting the one-time technology money.

(For complete details see General Exhibit No. 10191.)

Member Mark Cluff asked if in the technology goals if there was any discussion of audio enhancement? Dr. Harrington reported that the language of the technology bill talks about ten different ways one might choose to use the money. The initial bill talked about \$19 million going directly to audio enhancement. There was some back away from that. The intent language does not follow our forced requirement of that nor our first use of slicing off that piece of the pie and sending out the money – rather it leaves it to the individual district.

Vice Chairman Janet Cannon reported that she had an opportunity in December about high school redesign and one of the things they discussed was data quality in the United States education systems and how the different states are doing. In that Utah has one of the most outstanding data systems that is further along and further developed than almost any of the other states in the nation. This is moving us forward in positive ways.

Board Chairman Report

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

Chairman Burningham reported that we have followed through with nomination for Greg Haws for Secretary/Treasurer of NASBE has been sent as well as the nomination for the Huntsman's for Friend of Education Award.

Chairman Burningham noted that our April meeting will take place on April 4 and 5 with study sessions on the 4th. Vice Chairman Cannon will be surveying the Board to finalize the topics of the study sessions for the April 4 meeting. Vice Chairman Cannon reported that she will be sending a list of nine study items to board members. Board members will choose their top three. From this we will choose three to be our study session topics. These will be a NASBE type study in which the first meeting will be exploring the issues, getting input and understanding. Then in a follow-up session in St. George in September to look at how we can apply the information, where we should take it and action steps to proceed. The survey will be sent via e-mail.

Chairman Burningham noted that he and Superintendent Harrington will be meeting with the Governor tomorrow. If anyone has an issue they would like discussed please get that to him.

Chairman Burningham noted that the next Board Leadership meeting is on March 19 which will also include a meeting with the Standing Committee Chairs will be meeting morning. We will be discussing all of the things expected because of legislation that we must complete and items not completed on the strategic plan and identifying assignments for committees for the coming year.

Chairman Burningham reported that both he and Superintendent are leaving to attend the Learning First Alliance Summit. It is the corresponding group to the Utah Public Education Coalition. It includes all different organizations nationally.

Chairman Burningham noted that some have indicated concern of how items can be placed on the agenda. Under our current Bylaws there are two ways to have items placed on the agenda. (1) Submit the item to the Chairman, and he then takes it to Board leadership. (2) The committee itself could take a vote to place something on the agenda.

Chairman Burningham encouraged Board members to attend the Regional Meetings of the Utah School Boards Association.

Chairman Burningham noted that the next meeting of the Citizens for Educational Excellence will be on March 26.

Motion was made by Member Teresa Theurer and seconded by Member Richard Moss to adjourn. Motion carried.

Meeting adjourned at 4:00 p.m.