

## MINUTES

November 9, 2007

Minutes of the meeting of the State Board of Education held November 9, 2007, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 10:25 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 Rosanita Cespedes  
Member Mark Cluff  
Member Bill Colbert  
Member Thomas Gregory  
Member Greg W. Haws  
Member Michael G. Jensen  
Member Randall A. Mackey  
Member Debra G. Roberts  
Member Richard Sadler  
Member Teresa L. Theurer

Members Laurel O. Brown, Cyndee Miya, Denis R. Morrill, and Richard E. Moss were excused.

Also present were:

Superintendent Patti Harrington  
Associate Superintendent Brenda Hales  
Associate Superintendent Judy Park  
Associate Superintendent Larry Shumway  
Executive Director, USOR, Don Uchida  
Public Affairs Director, Mark Peterson  
Board Secretary Twila B. Affleck

Members of the Press:

Jennifer Toomer-Cook, Deseret Morning News  
Lisa Schencker, Salt Lake Tribune  
Beth Young, Standard Examiner  
Mark Templeman, Utah's Children  
Linda Mariotti, Granite School District  
Jared Haines, Utah College of Applied Technology  
Rick Miranda, Citizen  
A. B. Sternecker, Citizen  
Mary Ann Kirk, Citizen  
Holly Langton, Utah PTA

Utah State Office of Education staff:

Marlies Burns, State Charter Schools  
Nan Gray, Student Achievement and School Success

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Welcome and Student Achievement Spotlight

Vice Chairman Cannon called the meeting to order and shared thoughts about moving on into post-voucher territory. She stated that the Board still has some great and important things to do for children in the State of Utah. Vice Chairman Cannon shared where the Board has been and what they have done indicating that this year the Board has survived the “push and the pull” of some very difficult issues. She extended thanks to each of the Board Members for what they do in serving Utah children.

Vice Chairman also shared the Rotary International 4 Way Test: Is it the Truth? Is it Fair to all concerned? Will it build Goodwill and better Friendships? Will it be beneficial to all concerned?

Vice Chairman Cannon excused Board Members Laurel Brown, Cyndee Miya, Denis Morrill, and Richard Moss.

Member Richard Sadler lead the Board in the Pledge of Allegiance.

Board Member Teresa Theurer offered opening remarks commenting on the opportunity we have to live in a place where we can vote and where our vote actually matters. She shared some a couple of things about the right to vote and some history from our Constitution relative to our right to vote. She then offered a prayer.

The Board recognized, posthumously, Hattie Jane Munk who left a sizeable trust fund this year in the amount of \$110,000 for all middle, junior high, and high school libraries in the state as well as trust funds to Utah State University, BYU, and the University of Utah. It was noted that Jean, as she liked to be called, was almost 101 years old when she passed away in 2004. Jean was a teacher in Nephi, Cedar City, Price, Murray and Payson, in Hawaii and Los Angeles, and an English teacher at Logan High School for ten years. She loved her profession and was very highly regarded by her peers.

The Board recognized the generosity of Hattie Jane Munk and expressed their respect and gratitude to her family. A Certificate of Excellence was presented to her step-daughter, Jeanette Woolley in her behalf.

Comments by Chairman Burningham

Chairman Burningham shared the following statement:

**Constructive Suggestions for Education Growth**

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In Vice Chairman Cannon's comments she has very wisely placed our focus on the future. The voucher election is behind us. Before us stretches the continuing challenge of providing the best possible education for all Utah children. I am committed to that and I know that you are, too.

I must, however, interject one comment of concern.

In the days following the voucher election, some people said that "the onus [for addressing public education issues] is on the opponents to propose meaningful alternative reforms." To that, I agree. Public education although very good is certainly not perfect and does need continual improvement and, yes, even reform.

The Speaker quoted in yesterday's *Salt Lake Tribune* (November 8, 2007, "Vouchers: Dead for good?" p. A-4), however, further complained, "I have yet to hear a constructive suggestion from...." He names three groups, finally citing "the State School Board." To that statement, I vehemently disagree. I will not speak for the other groups cited; let them speak for themselves. I must, however, speak out strongly on behalf of the constructive and innovative suggestions coming from my colleagues on the State School Board. These suggestions have long been discussed by the board and prepared for implementation by the excellent USOE staff. Some have been funded and implemented. Many other important reforms have been neglected because funds to support the suggestions were not allocated by the Legislature, and this, at a time when resources were available. It is, therefore, obviously erroneous for the Speaker to say he has "yet to hear a constructive suggestion from...the State School Board." Our ideas are ready, but in several cases funding is the missing piece.

For a detailed list of our suggestions, I would recommend the skeptic ought to re-read carefully the budget recommendations produced by this board. The recommendations this year, alone, are replete with "constructive suggestions":

- Consider the board's thoughtful "ProExcel" suggestions, a compendium of ideas for improving teacher quality and quantity including, teacher mentoring, teacher recruitment, educator administrator enhancement, improved pay for all educators, market-based compensation, performance-based pay and more.
- Examine carefully the board's oft-made recommendations for improving the math performance of our students in a math initiative which would mirror the already successful reading initiative.
- Implement the board's recommendation to increase achievement among English Language Learners by increasing direct English instruction for those who struggle with our language.
- Increase the number of counselors per student so that students can receive the guidance necessary to achieve success.
- Keep education current with necessary computer updates, infrastructure and amazing software to stimulate students at all levels of instruction and prepares our children for tomorrow's careers.

I will not go on. I must, however, make the point clear. This State Board did not support vouchers because the majority of the board believes vouchers will hurt not help public education. But to say we have made "no suggestions" is blatantly false. I ask the critic to examine and seriously consider the budget recommendations provided by the State Board and developed collaboratively with the Utah State Office of Education. These are real and concrete – suggestions that I am confident will result in an even stronger education for all Utah's students.

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Board Standing Committee Reports

**Finance Committee**

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

Standards for Selling Foods Outside of the Reimbursable Meal Service in Schools, R277-716

In its October meeting, the Finance Committee discussed a draft of R277-719, *Standards for Selling Foods Outside of the Reimbursable Meal Service in Schools.*

Committee members asked to staff:

- clarify that the rule did not apply to areas of the school not accessible to students;
- combine and clarify the parts of the rule relating to vending machines;
- insert language allowing the implementation of the rule as current contracts expire; and
- add limitations on foods in lines with the Institute of Medicine standards for sugar and sodium.

(For complete details of the rule see General Exhibit No. 10387.)

Member Cluff noted that we have come a long way in establishing standards. The Committee made one change on lines 105-108, (e) and (f) to add wording indicating that 100% vegetable drinks and non fat or low fat dairy products be exempt from these two standards. It was felt that these products are valuable for our youth but they go over the standards.

Member Cluff noted that it was a tie vote from the committee. Two members want the rule as is mandating that the districts set up policies; the other two want this to be a recommendation to the districts that they set up policies and use the rule as guidelines.

Member Cluff indicated that the rule would still require districts to have a policy. Line 67 reads “The purpose of this rule is to outline requirements for school districts and charter school policies regarding foods sold outside of the reimbursable meal service.” The suggestion was to replace *requirements* with recommendations.

Member Cluff noted that lines 75 and 92 which state: “The policy *shall* include:” to make that the policy “may.”

The motion from the committee was the rule be tabled until the next meeting.

Motion was made by Member Teresa L. Theurer and seconded by Member Mark Cluff to pass the rule on first reading with the change proposed above, and continue to look at it in a year and see what districts have done.

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Member Debra Roberts requested that the *shall* remain on the financial area and only change the other two to may. Members Theurer and Cluff accepted that as part of the motion.

Member Richard Sadler spoke to the motion stating that our title is Board of Education, and we should try to educate people and make every attempt to pass this rule suggest that parents, board members, legislators and school children all be educated concerning healthy lifestyles in a variety of ways not just vending machines, leave to local control the variety of ways this can be done.

Member Bill Colbert spoke in favor of the motion and commended the beverage industry for the alternatives they have provided to students.

Motion carried with Members Allen, Burningham, Cluff, Colbert, Gregory, Haws, Jensen, Mackey, Roberts, Sadler and Theurer voting in favor; Member Cannon opposed.

#### Delivery of Flow Through Money, R277-423

State Board of Education Rule R277-423, Delivery of Flow Through Money has been revised and updated as a result of the normal five-year reauthorization process.

Minor changes to the rule include:

- Charter schools have been added;
- Repealed and no longer used statutory references have been deleted;
- The date that USOE provides to school districts and charter schools, the estimated dollar amount of the state share of MSP funding has been changed from June 21 to June 30 to match current availability of data;
- The transmittal of funding information to school districts and charter schools has been changed from U.S. Mail to electronic transfer to match current practice;
- Rule language has been clarified;
- Local Education Agencies (LEAs) are now required to keep bank account electronic transfer information accurate and current to enable the monthly bank transfers of funds to be completed in a timely manner;
- The required financial and statistical reports by school districts and charter schools to USOE referenced in this rule have been removed and properly referenced to existing administrative Rule R277-484, Data Standards.

(For complete details of the rule see General Exhibit No.10388.)

The Finance Committee approved the proposed changes to R277-423 and approved it on first reading. Motion from the Committee that the Board approve R277-423, Delivery of Flow Through Money, on second reading. Motion carried unanimously.

#### Licensing Fee Schedule, FY 2009

Licensing fees are levied for each new, renewed, or reinstated license or endorsement in accordance with Section 63-38-3.2. The expense of issuing licenses and of UPPAC

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operations are to be paid from the collection of licensing fees (Section 53A-6-105). The Board must approve a fee schedule to be included in its budget package to the Governor and the Legislature. The Governor will make his recommendations on the fees to the Legislature and the Legislature will adopt the fee schedule in the general session.

The Finance Committee reviewed and approved the revisions to the Licensing Fee Schedule for FY 2009. It was noted that the schedule was developed as a result of meetings with the Utah Education Association, School Finance and Educator Licensing. (For complete details see General Exhibit No. 10389.)

The Committee also talked about ways to get money to the districts to give them an incentive to pay the fees for teachers.

Motion from the Committee that the Board approve the Licensing Fee Schedule for FY 2009.

Member Tom Gregory raised a concern that the ARL fees are too high. He would like a suggestion of how the districts could look at ways of covering these costs. He feels that currently we are creating a larger hurdle into education than we need to.

Motion carried with Members Allen, Burningham, Cluff, Colbert, Haws, Jensen, Mackey, Roberts, Sadler and Theurer voting in favor; Member Gregory opposed.

#### Charter School Revolving Loan Subcommittee Recommendations

House Bill 164, 3<sup>rd</sup> substitute, passed by the 2007 Legislature, created the Charter School Revolving Loan Subcommittee to review and make recommendations regarding loans to charter schools. The State Board of Education is charged with approving loans to Charter Schools per UCA 53A-21-104(5) © School Building Revolving Account, specifically the Charter School Building Subaccount to pay for the costs of: (i) planning expenses; (ii) constructing or renovating charter school buildings; (iii) equipment and supplies; or (iv) other start-up or expansion expenses. The Charter School Loan Committee was established and is chaired by Michael Anderson with Michael Kjar, Richard Tolley, Sterling Orton, and Michael Jensen as committee members. They developed the criteria and a loan application process. There was \$6,000,000 allocated by the Legislature for this account, to be disbursed at a maximum of \$2,000,000 per year. (For complete details see General Exhibit No. 10390.)

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The Charter School Revolving Loan Subcommittee reviewed and applications submitted by four charter schools and recommended approval of loans to the following charter schools:

|                                 |           |
|---------------------------------|-----------|
| Canyon Rim Academy              | \$292,000 |
| CS Lewis Academy                | \$50,000  |
| North Davis Preparatory Academy | \$200,000 |
| Utah County Academy of Sciences | \$300,000 |

The Finance Committee reviewed the criteria and loan application process and the recommendations from the Charter School Loan Subcommittee and moves that the Board approve loans to the above charter schools. Motion carried unanimously.

Review and Discuss Capital Equalization

A second legislative task force on Capital Equalization has been formed and is discussing various means to equalize school building budgets across the state. Proposals fall into two basic categories:

- 1) the redistribution of existing property tax revenue, and
- 2) the infusion of new money to help lower property tax generating districts.

The Finance Committee reviewed the proposals presented in the October Board meeting and the Equalization Proposals from the Equalization Task Force. (For complete details see General Exhibit No. 10391.)

Member Cluff reported that Representative Tilton had a recommendation that he will put into a bill. The Task Force asked that he meet with the school business administrators to discuss their proposal and see if they can come to an agreement. Representative Tilton's bill is looking at taking a part of property tax and equalizing that around the state without forcing property tax increases, but some districts may be required to raise property taxes in order to meet the rules. The proposal by the school business administrators is Option 5, taking the current program for the foundation, growth capital, with a new method of spreading that money around to the districts based on a base allocation to each district, \$45 million in foundation, \$25 million in enrollment growth, \$25.4 million in Per ADM allocation @\$73 per ADM, and \$4.8 million as a base allocation; require minimum of 0.002400 tax rate of all capital and debt service rates to qualify for funds, for a total of \$100.2 million from income tax. The difference is one wants to use property tax the other wants to use income tax.

Member Cluff noted that the option from the school business officials currently has no one in the legislature to carry the bill. Further, Representative Newbold had a suggestion

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which may come out in a bill as well. Senator Buttars had a suggestion for a state school building board to look at all school buildings on a state level, and everyone on the committee thought it was not a good idea.

Member Cluff reported that there was no formal decision from the Task Force. The next meeting is November 19, where it is expected that a couple of bills will be presented for review and discussion.

The Finance Committee decided to see wait to see what the bills were before making any recommendations.

Motion was made by Member Debra Roberts and seconded by Member Mark Cluff to not support the concept of a building authority because it would add another level of bureaucracy without giving us any added benefits. Motion carried unanimously.

Chairman Burningham urged the Board to be more pro-active on this issue. He would like to see the Board take a position on the issue at the next meeting.

Member Debra Roberts suggested that the Board give Member Cluff the authority to indicate to the Task Force that the Board feels this is a positive move and a philosophy they could support.

Member Cluff indicated he would support that since one of the basic questions and philosophies we are looking at is do we want to equalize property tax in some way. Does the Board support equalization of property tax across the state, or not?

Motion was made by Member Mark Cluff and seconded by Member Bill Colbert to support the concept that equalizing property tax across the state, and continue looking at the method of best implementing that.

Vice Chairman Janet Cannon turned the gavel over to Chairman Burningham for the remainder of the meeting.

Vice Chairman Cannon was ill and excused from the remainder of the meeting.

Chairman Burningham suggested that the motion should possibly be acted upon in two parts since he did not recall the Board taking a position relative to the question of equalization.

Members Mark Cluff and Bill Colbert agreed to modify their motion into two parts; 1), of the philosophy of equalization of monies across the state; and 2) and the equalization of property tax.

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Motion to support the general concept of equalization as a means of serving all children in the state carried unanimously.

Second part of the motion that the Boards position is that the equalization should come from the property tax since the income tax is already equalized.

Holly Langton of the State PTA commented that the PTA is glad to see that the board had separated this. She noted that the PTA has an issue of looking at equity as well as equality. There are some areas that although you are equalizing dollars, the equity of the services of the area need to be taken into consideration.

Associate Superintendent Larry Shumway provided a summation of how the different levies are currently equalized or not through the property tax structure, and those that are equalized with income tax. He indicated that the discussion in the legislature is primarily focused on equalizing just the capital and debt service levies.

Member Richard Sadler suggested that the Board needs to study this a little more and Member Cluff has what he currently needs from the Board as he attends the Equalization Task Force meeting. He further suggested the motion be tabled for another meeting.

Motion was made by Member Richard Sadler and seconded by Member Randall Mackey to table the motion. Motion carried with Members Allen, Burningham, Haws, Jensen, Mackey, Roberts, Sadler and Theurer voting in favor; Members Cluff Colbert and Gregory opposed.

Motion was made by Member Debra Roberts and seconded by Member Dixie L. Allen that as the Board looks at equalization it also look at the concept of equity as addressed by the PTA. Motion carried unanimously.

### **Law and Policy Committee**

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

#### Educator Licensing and Data Retention, R277-502

Title 53A, Chapter 6 outlines rules for “Educator Licensing and Professional Practices.” Section 104 specifically refers to licensure which in practice is governed by Board Rule R277-502. Upon reviewing this rule, the following changes need to be made:

1. Align rules with updated practices and codes
2. Update language in rule to ensure compatibility with practice

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3. Reassign sections to appropriate rule.

The Committee reviewed the amended rule, R277-502 and held it for another month for further discussion. (For complete details see General Exhibit No. 10392.)

Charter Schools, R277-470

Initially, charter schools did not have a specified timeline for opening a school, and several schools were approved less than six months prior to opening their doors. While some schools were capable of making this fast transition, other schools suffered, and continue to suffer because of accelerated timelines. In the 2006-2007 school year, only two of the 13 permanent charter school facilities were completed on time to open doors prior to October 1. Many schools had to meet in temporary facilities and one school opened after October 1.

Upon review of R277-470-7 Timelines - Charter School Starting Date, the State Charter School Board desired to include the date of January 1 of the year the school is scheduled to open as the deadline for acquiring a facility and entering into a written agreement, breaking ground for a new facility, or beginning construction for the renovation of an existing facility.

The Law and Policy Committee considered the change in R277-470-7 © a local or state-chartered school shall acquire a facility and enter into a written agreement, break ground for a new facility or begin construction for the renovation of an existing facility no later than January 1 of the year the school is scheduled to open. (For complete details see General Exhibit No. 10393.)

The Law and Policy Committee approved the rule as amended on first reading and moves that the Board approve R277-470, Charter Schools, as amended above on second reading.

Motion was made by Member Teresa Theurer and seconded by Member Debra G. Roberts to amended the motion take out breaking ground. The wording would then be: a local or state-chartered school shall acquire a facility and enter into a written agreement, begin construction for a new facility or for the renovation of an existing facility shall begin no later than January 1 of the year the school is scheduled to open.

Member Mark Cluff commented he agreed with the principle but voiced concern with the “or.” He felt that “beginning construction” should be in both places. The wording would then read: begin construction for a new facility or begin construction for the renovation of an existing facility.

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Member Theurer accepted the change in wording as part of her amendment.

Marlies Burns, Executive Director of the State Charter School Board commented that the State Charter School Board has every intention of holding schools to beginning in January. However, there are circumstances where city councils may hold things up until the deadline date. If you take out breaking ground it limits the grey areas for charter schools to begin construction, citing the issues with the Providence Hall Charter School.

Amendment carried with Members Allen, Burningham, Colbert, Gregory, Haws, Jensen, Sadler and Theurer voting in favor; Members Cluff and Roberts opposed; Member Mackey absent.

Motion as amended carried unanimously.

#### State Charter School Board Legislative Recommendation

In Utah Code 53A-1a-511 Charter Schools in Utah are granted waivers from specific sections of Utah Code 53A. Included in these waivers is an exemption to Chapter 19 Part 1, Fiscal Procedures, pertaining to fiscal procedures of school districts and local school boards. After careful consideration of the financial problems arising in charter schools, the State Charter School Board recognizes that several problems could have been avoided had the charter school's budget been reviewed.

Upon review of the Utah Code 53A-1a-507, Requirements for Charter Schools, the State Charter School Board desired to require that charter schools adhere to the specific sections of Chapter 19, Part 1, which requires a school to approve its budget in June and submit copies to the state.

The Committee reviewed the recommendation and moves that the Board approve the State Charter School Board recommendation to request additions to 53A-1a-507(4)© a charter school shall follow 53A-19-102(1) and 102(3) which requires schools prior to June 22 of each year, to adopt a budget in an open board meeting and file a copy of the adopted budget with the state auditor and the State Board of Education. Motion carried unanimously.

#### English as a Second Language (ESL) Endorsement Standards for Utah

An analysis of the current English as a Second Language (ESL) Endorsement Standards revealed a need for revisions to reflect the No Child Left Behind Title III requirements and current research on teacher preparation in second language acquisition theory and practice. Therefore, a committee consisting of representatives from Utah school districts, higher

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education, the Coalition of Minorities Advisory Committee (CMAC), and the Utah State Office of Education (USOE) met to redefine the ESL Endorsement Standards for teacher preparation in Utah. A standards document was developed to provide guidance to universities and school districts that administer the ESL Endorsement programs that will provide consistency among program providers in Utah.

The Committee reviewed and received the ESL Endorsement Standards. (For complete details see General Exhibit No. 10394.)

### **Board Meeting**

#### **Public Participation/Comment**

Alan Sternecker and Rick Miranda addressed the Board on the issue of cell towers on school property. Mr. Sternecker indicated that he is a neighbor of the Albion Middle School. He indicated that health agencies and school districts should strongly discourage or prohibit cell towers on or near (within 1000 feet of) school properties, should delay any new WLAN installations in school classrooms, pre-schools and day-care facilities; and should either remove or disable existing wireless facilities, or be required to offer classrooms with no RF exposure to those families who choose not to have their children involuntarily exposure. (For complete details of the materials presented see General Exhibit No. 10395.)

Member Dixie Allen recommended that the Board review this science and study the potential affects, and to look at the research as it stands. She indicated that it is a difficult decision for the local district to make these decisions because they are receiving money for these.

It was agreed that this issue will be referred to one of the Board standing committees for further study.

Mary Ann Kirk, Murray Arts Council, commented that this past month she had spent a lot of time talking on the phone and visiting with neighbors regarding vouchers. During these discussion it became obvious to her that we lack a shared vision of education. This experience should cause all of us to step back and discuss our philosophy and expectations of public education. Somehow we need to find common ground. As part of this discussion we need to better educate community leaders on how education is funded. She is alarmed at the negativity that has become common place, the attacks on thoughtful teachers and administrators who are working under extreme pressure to produce are unproductive.

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Unfortunately our efforts to be accountable for public tax dollars has resulted in creating a perception that public schools are failing – she refuses to accept that statement. We have used test scores to define who we are and what we are about. Tests are just one mechanism to gage how we are teaching.

A serious question remains on how we get parents more involved and some students more engaged. There is one argument made by voucher proponents that she believes could merit some serious discussion. What do we do when a child is truly making an effort but is not progressing? Can we develop a stronger child advocate program that helps parents “work the system” to identify options within public education that better serves their child’s needs. We need to more clearly articulate the various options available and the strengths of each. She suggested that a statewide web site be developed where parents could check out each school, including charter schools, and read about the strengths of each. This could facilitate an opportunity for parents and students to view options, but also better paint a picture of the school environment aside from test scores.

Ms. Kirk stated that she sees a need for the follows: 1) discussion of the philosophy of public education and find common ground for reform and funding mechanisms; 2) creation of a student advocate program that helps parents navigate the system and find viable options to meet critical needs of students; 3) exploration of new ways to get parents more involved and students more engaged; and 4) changes in our attitudes to reflect a positive healthy school environment that values the teaching profession, acknowledges areas to improve while highlighting individual strengths of each school. (For complete details see General Exhibit No. 10396.)

Standing Committee Reports Cont.

**Curriculum Committee**

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

Meeting the Needs of Utah’s Secondary Students  
in Career and Technical Education

The Utah State Board of Education is required to provide an annual report to the Governor and to the Legislature’s Public Education Interim Committee detailing how the needs

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of secondary students are being met and what access they have to programs offered at the Utah College of Applied Technology (UCAT).

Mary Shumway, Director, Career and Technical Education, presented the report to the Committee. (For complete details see General Exhibit No. 10397.)

Member Theurer highlighted one of the findings that there is concern that UCAT courses are not being able to get college credit. Statutes indicate this is supposed to happen. We need to get the Board of Regents on board to address this issue.

Much of our CTE is done in the schools, but we appreciate and count on what is being done in the colleges around the state.

Member Theurer reported that the Committee also reviewed the UCAT report which was presented by Jared Haines, President of UCAT. (For complete details see General Exhibit No. 10398.)

The Committee received the reports.

Standards for School District Discipline Plans, R277-609

H.B. 286, School Discipline and Conduct Amendments, 2007 Legislature, requires school districts/schools to include language regarding disruptive student behavior in their discipline plans. The amended rule requires schools districts/schools (including charter schools) to develop and implement school management and discipline strategies and policies. The amended rule provides a definition of disruptive student behavior, provides for parent/guardian notification and participation in addressing disruptive student behavior, and provides for the development of USOE model policies.

At the September 2007 Board meeting, the Curriculum Committee reviewed the amendments to R277-609 and had several concerns about the language. The Committee asked staff to seek more information from school districts and parents. Staff sought input from the School District Student Services Directors, Utah's Behavior Initiative (UBI) Advisory Council, and the Salt Lake City School District Parent Center and have included the suggested changes in the rule.

The Committee reviewed the amended rule. (For complete details see General Exhibit No. 10399.)

The Curriculum Committee approved the amended rule, R277-609 on first reading and moves that the Board approve R277-609 Standards for School District Discipline Plans on

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second reading. Motion carried with Members Allen, Cluff, Gregory, Jensen, Mackey, Roberts, Sadler and Theurer voting in favor; Members Colbert and Haws absent.

Comprehensive Counseling and  
Guidance Program Resolution

The Comprehensive Counseling and Guidance program is a key component for student success. A recent study of Utah Comprehensive Counseling and Guidance program revealed the following:

- Comprehensive Counseling and Guidance has fostered more targeted course selection for students and has resulted in more students taking a greater number of higher-level English, science, math, and technology-oriented courses.
- The percentage of students who describe their own program of study as “general” has fallen precipitously in the nine years between evaluations.
- Students in high-implementing Comprehensive Counseling and Guidance schools achieve higher levels of academic achievement and make better decisions about education and career planning than do students in matched lower-implementing schools. The importance of this finding cannot be over stressed. Even more powerful is the fact that this same pattern of results was evident in both the 1997 Utah evaluation and the most recent study reported here.
- These studies show that the Comprehensive Counseling and Guidance Program is more effectively implemented with adequate counselor to student ratios in Utah’s schools, whether urban, suburban, or rural.

Funding for the Comprehensive Counseling and Guidance Program has not kept pace with the demands of new schools, increased enrollment, and increased responsibilities related to testing now carried out by school counselors. Student-counselor ratios are high in Utah’s secondary schools.

The Committee considered a resolution regarding the Comprehensive Counseling and Guidance program and funding to reduce student-counselor ratios and made changes to the draft presented. (For complete details see General Exhibit No.10400.) The Committee approved the amended Resolution.

Motion from the Committee that the Board approve the resolution as amended for the Comprehensive Counseling and Guidance program.

Member Tom Gregory questioned if in the committee discussion was there discussion of asking that the number be indexed with inflation and student count. The Committee was told this would be the case.

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Chairman Burningham commented that the resolution tells the legislature that if they will provide the money we promise the reduction in ratio.

Member Mark Cluff commented that he supports the need for good counselors and the need to set a ratio, his dilemma is with the line item for funding versus allowing the school district to make the decision. He would like to see more money put in the WPU and allow the school district to meet our guidance. He supports the concept.

Member Tom Gregory commented that he has many of the same reservations as Member Cluff. He questioned if we should first look to the legislature to fund a program that we think is so vitally important for student achievement or should we take the first step and say these are the requirements and we expect you [schools/districts] to meet.

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

#### Grades Four Through Six Mathematics Improvement

53A-17a-152, Grades Four Through Six Mathematics Improvement, passed by the 2006 Legislature, 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, over a three-year period.

Thirteen programs were selected to 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 Committee was updated on the implementation of the 13 funded projects. (For complete details see General Exhibit No. 10401.)

The Committee received the report.

#### 2008 Math CRT Alignment and No Child Left Behind, Adequate Yearly Progress Appeal Process

With the recent revision of the math core and the development of an aligned math CRT, there have been many concerns about the 2008 math CRTs. A request has been made by the district assessment directors to revisit the issue and change the current plan for the 2008 math CRTs.

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With the recent release of the AYP Accountability Reports, there have been some concerns with the reasons for the appeals and the receipt of appeals outside the allowed 30 day window. A meeting was held with District Superintendents on October 24 to discuss the concerns, clarify the issues, and determine the appropriate resolution. At the request of the 12 District Superintendents attending the October 24 meeting, this discussion will also take place at the November 4 USSA meeting. The materials presented included the power-point used at the meeting on October 24 and the notes from the meeting.

The Committee received updated information concerning the development of the math CRTs for 2008 as well as information from the November 5, 2007 Utah School Superintendents Association meeting with the resolutions for the 2007 AYP reports. Information was also received clarifying the 2008 AYP Appeal Process. (For complete details see General Exhibit No. 10402.)

Discussion ensued relative to the new math core curriculum and testing between the old and the new curriculum.

The Committee would like to look into this and possibly have a board rule, with input from a wide variety of areas, so we don't have to deal with this problem every year.

The Committee received the report as information.

#### Executive Session

Motion was made by Member Thomas Gregory and seconded by Member Dixie L. Allen to move into an executive session following lunch for the purpose of discussing personnel issues. The Board was polled and by unanimous consent of those present [Member Colbert and Mackey absent] the Board moved into an executive session at 1:05 p.m.

Motion was made by Member Dixie L. Allen and seconded by Member Michael Jensen to reconvene into open meeting. Motion carried. The Board reconvened at 2:10 p.m.

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

Motion was made by Member Thomas Gregory and seconded by Member Dixie L. Allen to adopt the Commissions recommendation and accept the stipulated agreement in Case No. 07-812, including conditions of the agreement, whereby a former educator at the Northern Utah Academy of Math, Engineering, and Science (NUAMES - [a charter school]), voluntarily surrenders his educator license in lieu of a hearing for purposes of suspension of his license for one year from the date of formal action by the State Board of Education. The suspension results

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from the inappropriate discussions of abortion and contraception and without prior written parental consent. Motion carried with Members Allen, Cluff, Colbert, Gregory, Haws, Jensen, Mackey, Sadler and Theurer voting in favor; Member Roberts absent.

(For complete details see General Exhibit No. 10403.)

### **Chairman Burningham Statement**

Chairman Kim R. Burningham stated that for seven years he has served as Chairman of the State Board of Education and has really enjoyed doing it. He announced that he will not seek re-election as chairman of the Board. He expressed appreciation to the dedicated board members, especially to Vice Chair Janet Cannon, former superintendent, Steve Laing, current superintendent, Patti Harrington and board secretary, Twila Affleck, as well as the entire staff of the State Office of Education. He also expressed appreciation to his wife, Susan, who has been constantly supportive, highly interested, and deeply committed.

Chairman Burningham stated that his reasons for this decision are multiple and primarily personal. He indicated he was exhausted from the intensity of the work over the last months and further, his wife's chronic health problems suggest that he should not now continue in this service.

He indicated he will commit much of his future effort to a personal goal to work towards a less partisan, more civil lawmaking process in Utah with moderate statespeople who are receptive to and understand the needs of educating the state's children.

### Executive Officer Report

Superintendent Patti Harrington presented the following items of information:

#### Information Items:

- State promotion of energy efficiency actions by all state services, including schools.
- Gifted and Talented Association seeking \$1 million to enhance Gifted and Talented Services for Students.
- Governor's Blue Ribbon Panel on Assessment
- November Public Education Interim Agenda

#### Discussion Items:

- Data issues:

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Associate Superintendent Larry Shumway reviewed the recent issues and recommendations relative to USOE data, reporting, and budget preparation. (For complete details see General Exhibit No. 10404.) He reported that there was no hint of any misconduct or malfeasance in the office.

Superintendent Harrington noted that this is a top priority for her and identified the following:

1. WestEd working on the Comprehensive Utah Student Achievement Plan (CUSAP).
  2. Hiring outside consultant with national data reputation and services.
  3. Data management tool purchase on hold until “protest” is settled.
  4. Daily meeting to coordinate and correct data services/management.
- High school activity options for students – possible review of attendance policy.
  - Utah Schools for the Deaf and the Blind:

1. They have a need for Salt Lake City building remodel or other building.

They have been designated to take over a former BYU site by the Division of Facilities, Construction and Management (DFCM). The site is on Highland Drive and is quite nice, however, it is totally meant for business offices, not schooling. DFCM has allocated about \$.5 million to remodel the site to fit a school need. This is far short of what is needed to create a school out of that building. We are looking at some other options such as taking over an elementary school in the Granite District that is not being used at this time.

The issue at hand is that the Utah Schools for the Deaf and the Blind have no local property tax, no taxing authority at all, and their needs for buildings go unmet unless the state meets them. They are viewed as a state agency. Dr. Harrington suggested it may be time to re-look at this and consider how a local property share might be given to each student represented at the USDB, much the same as charter schools. With this in mind she would like tentative approval from the Board to try to alter the thinking on the legislative part to provide some local property tax share for students that attend USDB. To do this fairly immediately with Representative Bigelow who is carrying this

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forward relative to charter schools and/or attach it to a larger USDB bill we expect may be a year hence.

The Board offered approval for the superintendent to move in this direction.

(For complete details see General Exhibit No. 10405.)

### Legislative Update

The Board has requested that a brief update of legislative activity be given in each board meeting between now and next March. The update is intended to ensure that Board members are adequately informed of the critical issues that are or may be before the Utah Legislature. Additionally, interim Board meetings may be set to provide for timely information and decisions during the legislative session.

Associate Superintendent Larry Shumway presented information regarding legislative activities, and the key bills and issues. (For complete details see General Exhibit No. 10406.)

### Board's Response to the Constitutional Review Commission

Chairman Burningham reported that the Constitutional Review commission has been asked to look into the appointment of the state superintendent and the makeup of the State Board of Education, etc. They have had a couple of discussions but have not moved forward. Their meeting that was scheduled yesterday was cancelled and moved to November 15, but they will be focusing on search and seizure issues. We do not know if the issues relative to the board and the superintendent will even be on the agenda of that meeting. Carol Lear reported that she had received a voice message from the staff of the commission that these issues will possibly be discussed will be in the spring.

### Board Study Group Report on Achievement Gap

In April 2007 the Board began to study three issues that it determined to be top priorities for the Board. In September 2007 the study groups looked at how we can apply the information they gleaned, where the Board should take it and action steps to proceed. The Study Groups identified were: Achievement Gap, Dropout Prevention, and Funding the WPU.

The Study Group Report and Recommendations on the Achievement Gap was presented by Member Tom Gregory. (For complete details see General Exhibit No. 10407.)

Member Gregory reported that very early on in the study group it was recognized that while we have an achievement gap issue in Utah, the major initiatives being pursued by the

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Board were targeted at student achievement for people of all backgrounds. The programs the Board is advocating would all have a positive affect on the achievement gap.

Member Gregory indicated that the Boards focus is the student in public education. The influence the schools, teachers and educators and the public education system does everything it can to influence student achievement. It is important that we give it our best effort and focus on the growth. However, it is important that we recognize there are things we cannot do anything about at this point. The area the Board affects, we have direct influence on how the school responds, and we can and should do more to influence other aspects of a students' life. As a Board we have a responsibility to advocate for additional social programs that will raise the level of education in our homes. There needs to be an increased awareness by the Board of our adult education programs. Some of our education dollars could be more effectively spent by focusing on social programs that target the education of parents which will trickle up through our elementary schools. He suggested the Board needs to partner with organizations to give parents tools to teach the basic concepts such as reading, math, etc.

Member Bill Colbert suggested that we collaborate with those such as the Coalition of Minorities Advisory Committee to help get this type of information out.

Chairman Burningham reported that there was emphasis during the committee toward better counseling which has lead to the resolution adopted earlier in the meeting.

The Board received he report.

#### General Consent Calendar

Motion was made by Member Debra G. Roberts and seconded by Member Dixie L. Allen approve the Consent Calendar with a change on B, Contracts, to change to change the amount of the contract to NCS Pearson, Inc. To \$1,650,508, error only on the General Consent Calendar cover pages, contract reads correctly. Further to pull Item E, Handbook for Speech-Language Pathologists and Speech-Language Technicians Working in Utah Public Schools, for discussion. Motion carried unanimously.

Motion was made by Member and seconded by Member to approve the General Consent Calendar as presented.

1. Minutes of Previous Meeting

Minutes of the Meeting of the State Board of Education held October 5, 2007.

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2. Contracts

The following contracts were approved by the Board:

(A) NCS Pearson, Inc. \$1,650,508. 8/31/07-8/31/09 - Amend.

Amendment is for the purpose of extending the original contract by 2 years for scoring services for DWA.

(B) Rocky Mountain Power. \$36,000. 7/1/07-6/30/08 - RECEIVABLE

To provide funding to support construction of a 1.8 kw wind turbine at four Utah public school sties.

© Utah Department of Human Services. \$130,000. 7/1/07-6/3/08.

To promote training of trainers, teacher in-service training and implementation of the preventions Dimensions program statewide; develop and distribute Prevention Dimensions resource materials; and oversee, in cooperation with the University of Utah Social Research Institute, the evaluation of the Prevention Dimensions program and corresponding evaluation of the program to effective program status with the Center for Substance Abuse Prevention's (CSAP) National Registry for Effective Programs (NREP).

(For complete details see General Exhibit No. 10408.)

3. Educator Licensing Requests for Temporary Authorizations

Requests for Temporary Authorizations as submitted by the school districts were approved by the Board. (For complete details see General Exhibit No. 10409.)

4. Instructional Materials Commission Operating Procedures, R277-469

The Instructional Materials Commission, as originally set up by the Utah Legislature, has been reviewing textbooks for over one hundred years. Since the inception of No Child Left Behind (NCLB) and greater accountability concerns, the Instructional Materials Commission has been requiring publishers to align submitted basal/core materials to the appropriate Utah Core for Language Arts, Mathematics, Science, Social Studies, Fine Arts, and Health.

The 2007 Legislature passed H.B. 364, S1, which: (1) prohibits a school district from purchasing certain instructional materials unless the materials have been evaluated by an independent party for alignment with the core curriculum; (2) requires that the alignment evaluation be made available on a website at no charge; and (3) exempts charter schools from the evaluation requirement.

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An amendment to R277-469 was made in the May 2007 Board Meeting to support the recent legislation and provide guidance to publishers who want to sell primary instructional materials to Utah schools, on the correct procedures and forms required for consistent, independent party alignment to the core. It also provided requirements for online posting to publisher websites.

The proposed amendment to R277-469 will direct the Utah State Office of Education to develop a Request for Proposal that will result in one vendor conducting all independent alignments for all publishers.

The Board approved R277-469, Instructional Materials Commission Operating Procedures on second reading at its October 5, 2007 meeting. There have been no substantive changes to the rule since that time. The Board approved R277-469, Instructional Materials Commission Operating Procedures on third and final reading. (For complete details see General Exhibit No. 10410.)

5. USBE Annual Calendar

The Utah State Board of Education Annual Calendar for 2007 is provided for information to the Board. (For complete details see General Exhibit No. 10411.)

7. Ratification for Employment

Ellie Beth (Elvena) Brady was ratified as an Educational Specialist in the Student Achievement and School Success Division.

Matthew E. Anderson was ratified as an Educational Specialist in the Business Services Division.

Sheralene Marchant was ratified as an Educational Specialist in the Student Achievement and School Success Division.

8. 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. 10412.)

9. Claims Report

The Claims Report in the amounts of \$239,686,873.91 and respectively for September 30, 2007 and October 31, 2007 were approved by the Board. (For complete details see General Exhibit No. 10413.)

10. Speech Language Pathologist and Technician Handbook

Proposed revisions to R277-504 create rules that provide for speech language technicians to work in Utah public schools under the supervision of licensed speech language pathologists. The proposal of speech language technicians has

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created the need of a handbook that will provide guidelines and direction to LEAs that ensure:

- 1) that the newly created speech language technicians are appropriately assigned in the services they provide to students. Carefully determined assignments are necessary to be certain that students receive services from licensed speech language pathologists as required by state and federal statutes.
- 2) that speech language technicians are appropriately supervised by licensed speech language pathologists in accordance with reasonable and acceptable professional standards.
- 3) that LEAs ensure speech language technicians receive appropriate training for the assigned duties.

The Board approved the Handbook on second reading at its October 5, 2007 meeting. Recommendations for changes have been made to the Handbook since that time. They are:

Section: Background. Replace the words “a professional” with “an individual.” The Utah State Office of Education has created the Speech-Language Technician license area of concentration for *an individual* who has completed a Board-approved bachelor’s degree in communication disorders at an accredited higher education institution and additional training as approved by the USOE.

Section: Roles and Responsibilities for the Speech-Language Technician, Amount of Supervision (A). Replace “weekly” with “supervision during the work week.” Receive a minimum of 30% supervision *during the work week* (at least 20% direct) for the first 90 days and 20% supervision *during the work week* (at least 10% direct) after the first 90 work days.

Section: Roles and Responsibilities for the Speech-Language Technician, General Management (Q). Replace “at” with “during.” Not write, develop or modify a student’s individualized treatment plan or IEP in any way, however, the SLT may present information as directed by the supervising SLP *during* an IEP meeting.

Member Debra Roberts reported that in behalf of Member Laurel Brown who could not be present at the meeting, she requested an additional paragraph to the handbook on page 6 under Roles and Responsibilities for the Speech-Language Technician, Amount of Supervision, add a “C. Perform therapy tasks only when a supervising speech-language pathologist can be reached by personal contact, phone, pager or other immediate means. If for any reason (e.g. maternity leave, illness, change of jobs) the supervising speech-language pathologist is no longer available to provide the level of supervision stipulated, the technician shall not perform therapy

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tasks until a licensed speech-language pathologist has been designed as the technician's supervisor."

Motion was made by Member Debra G. Roberts and seconded by Member Dixie L. Allen to approve the addition to the Speech Language Pathologist and Technician Handbook the above language and approve the Handbook on third reading. Motion carried unanimously. (For complete details see General Exhibit No. 10414.)

#### Board Chairman Report

Chairman Burningham presented the following items of information:

November 29 Adolescent Literacy Conference will be held and would like attendance from as many Board Members as possible.

NASBE - A service we receive from NASBE as part of our dues is to a member of NASBE's staff work with the Board on their goals and strategic planning. Leadership has discussed the issue of our overall goals and has requested that Brenda Welburn tentatively plan to help us with this on April 3, 2008. This, of course, will be dependent on new leadership.

Meeting with the Governor - Yesterday we met with the Governor for a review of our budget, they brought a draft budget and it is very much a budget that will be changed awaiting dollar figures next week.

There is another meeting scheduled with the Governor next week.

Board leadership meeting is scheduled for November 28,

K-16 Alliance meeting December 11,

Citizens for Education Excellence Committee met on November 5 and talked about K-16 Alliance concepts and finalized a statement of their support of these issues. They will be working with the legislature to try to bring about additional support for ELL, ProExcel and math development issues as well as K-16.

The Board Calendar for next year has been changed once again. He noted the change in the June meeting to June 13.

Chairman Burningham reported that Gary Swensen's wife has had cancer surgery and has had further surgery to remove her thyroid. He noted that a card will be sent from the Board.

The next board meeting will be on Friday, December 7, election of board officers will take place at that meeting as well as a holiday social with a white elephant gift exchange.

Details will be forthcoming.

The Governor's Education Summit will be held next Tuesday, November 13<sup>th</sup>.

Monday 12<sup>th</sup> Deans of Colleges of Education meeting.

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Member Greg Haws reported that those attending the NASBE Conference heard from the former superintendent from the Edmonton Canada district relative to the changes he made there. This was a fascinating discussion and is certainly thinking outside the box. Secondly, a tour was provided to the school of the future sponsored by Microsoft. He would like to hear more about this school. One of the things they were impressed with was that there was not a separate class for math, it was integrated into every subject. Every student has a computer and there are no textbooks. Also, the high school started at 9:30 a.m.

Member Haws commented that this was a great conference and Utah was well represented.

Member Dixie Allen shared a Utah School Boards Association training CD on community councils.

Motion to adjourn was made by Member Teresa L. Theurer. Meeting adjourned at 3:15 p.m.