

MINUTES

December 16, 2008

Minutes of the meeting of the State Board of Education held December 16, 2008, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 10:15 a.m.

Chairman Richard Sadler presided

Members present were:

Chairman Richard Sadler
Vice Chairman Mark Cluff
Member Dixie L. Allen
Member Laurel O. Brown
Member Kim R. Burningham
Member Janet A. Cannon
Member Rosanita Cespedes
Member Bill Colbert
Member Thomas Gregory
Member Greg W. Haws
Member Meghan Holbrook
Member Michael G. Jensen
Member Charlene Lui
Member Randall Mackey
Member Denis R. Morrill
Member Richard Moss
Member Debra G. Roberts
Member Teresa L. Theurer

Also present were:

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

Members of the Press:

Loretta Park, Standard Examiner
Lisa Schencker, Salt Lake Tribune
Amy Stewart, Deseret Morning News
Dave Crandall, State Board Member Elect
Shelly Locke, State Board Member Elect
Leslie Castle, State Board Member Elect
C. Mark Openshaw, State Board Member Elect
Michael Kjar, Governors Office of Planning and Budget
G. W. Leonard, Utah School Boards Association
Kim Campbell, Utah Education Association
Brian Allen, Utah State Charter School Board

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Welcome and Student Achievement Spotlight

Chairman Richard Sadler called the meeting to order.

Board Member Teresa Theurer led the Board in the Pledge of Allegiance.

Board Vice Chairman Mark Cluff welcomed everyone to the meeting. He commented that this is the people's business we are all about. Merry Christmas and Happy Holidays to everyone. He stated that this has been a great four years for him, he has learned a lot and one thing he has learned in being involved in government is that for good democracy to happen you have to have a moral people; and the more we are not a moral people the more we are at risk – especially our children. Appropriate in this season that those that are Christian are remembering the birth of those that feel brought the gospel that would make the difference if people would live it. He then offered a prayer.

Associate Superintendent Brenda Hales presented information on an educator who has been teaching the arts to public education students for over 50 years. She indicated that Michael James Clarke, known throughout his life as “Jim,” teaches art at Bryce Valley High School. Educated during his early years in a small, one room school building, Jim was taught by a young school teachers named Arthur Brui8n, who later became President of Dixie Junio College in St. George.

After completing military service during World Ward II, Jim enrolled in the Rocky Mountain School of Photography, in Salt Lake City.

Upon graduation from Utah State, Jim accepted a teaching position at Virgin Valley High School in Mesquite, Nevada. During his eighteen years working for the Clark County School District, Jim became well known for many innovations, including a technological achievement for its time, “Art by Telephone.” As a grassroots effort during the late 1950's, Jim designed a program connecting multiple sites around the Western United States where, via telephone, art classes could be taught through this unique, distance education format. In 1967, his “Art by Telephone” program was recognized with the Pace Maker Award by the National Education Association of the United States and by *Parade Magazine*.”

In 1976 Jim was offered a teaching position with the Garfield County School District. During the early years Jim taught concurrently at schools in Boulder, Escalante, Panguitch and Tropic. Centrally located in Cannonville, Jim routinely traveled to each of the four elementary schools and three high schools to start, for the first time, an Art program in the school district.

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Jim “retired” for the first time in the late 1990's but couldn't stay away from the classroom. He was hired to teach three classes a day at Panguitch High School for several years more, after which time he “retired” again. His love of teaching and for the arts, however, could not be contained, and when approached by Bryce Valley High School to teach one art class a day.

The Board recognized Jim Clarke with an Excellence Certificate.

Utah State Charter School Board New Charter
Schools and Charter School Amendment
Recommendations

Existing school amendment recommendations:

- Summit Academy, add grades 10 - 12 and increase enrollment by 900

Brian Allen, Chairman of the State Charter School Board addressed the concerns expressed by some of the State Board Members relative to Summit Academy. He reported that Summit Academy submitted a plan for a satellite campus to the State Charter School Board office early this year, and in April delivered a copy of that packet of information to the Jordan School District. Along that process, a recommendation came from the State Charter School Board office that rather than a satellite they do an expansion so they could give preference to the students who are currently attending their school to attend the high school. The challenge with an expansion is that they cannot locate on the same property because they are only able to put so many students at their current facility. They need to go to a different location. The Charter Office suggested they seek an expansion then seek a waiver from the rule that they have to be co-located at the same location and look for a property that is within a short distance from the school. They have found some property to do that. In September when the State Charter School Board reviewed their application to go from a satellite to an expansion, they were not certain a copy of that had been submitted to Jordan School District, and we made a copy of that available to the school district within a matter of a couple of days. There was not anything substantively different in either of the applications other than the fact that one was for a satellite and one was for an expansion with the waiver to be able to locate to a different property. The State Charter School Board felt the notice had been provided as required by rule because in April they did deliver the original application to the Jordan School District, and nothing had substantively changed. Therefore, they felt the school had complied with the rule as outlined. The State Charter School Board did receive comments from Jordan School District, and there was nothing

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in the comments from Superintendent Newbold that would substantively change their minds as to why they would recommend the amendment to the Summit Charter School.

Member Teresa Theurer requested that the two items, amendments and new charter school be split for a vote.

Member Theurer voiced concern with the rule waiver request for this school to operate in two locations, and whether or not other schools would be asking for the same waiver at some point.

Member Mark Cluff spoke to the issues of satellite versus expansion. He explained that for a satellite you have a good model for a school in one location and they want to duplicate that at another location. In this case, they have a K-9 and they want to add on high school so it is not taking the model they have and creating a satellite, they are expanding their current school at a different location because of space restrictions at the current location.

Motion was made by Member Mark Cluff and seconded by Member Richard Moss to approve the amendment to Summit Academy, and to waive the November 30th rule deadline; further, that the expansion can be no more than 1,000 students at the original location.

Chairman Sadler reviewed Rule R277-470 relating to charter schools: "Expansion means a proposed 10% increase of students or grade levels in an operating charter school at a single location." He clarified that the motion would be waiving this rule relating to this school.

Member Denis Morrill spoke against the motion voicing concern with waiving the 10% increase rule. If it is an expansion, it needs to be called such. There are other ways to do it if you want to create a new school.

Member Bill Colbert questioned what prohibits the Board from approving this as a satellite?

Carol Lear, Director, School Law and Legislation responded that in the same rule there are qualifiers for satellite schools.

It was clarified that the school did not want to access additional federal monies for a satellite campus.

Member Laurel Brown shared a communication she had received from Jeanene Bowen of the Jordan School District, indicating Dr. Newbold's concerns.

Member Brown voiced concern that in the past the Board had not waived a definition of terms. She is concerned with waiving the definition of expansion.

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Member Debra Roberts noted that the Board passed a rule at the last board meeting describing a process in order to put waivers into place. She suggested a change in the motion to approve Summit Academy as a satellite school contingent upon their willingness to abide by all of the requirements for a satellite school.

Substitute motion was made by Member Debra Roberts and seconded by Member Janet A. Cannon to approve a satellite campus for Summit Academy, contingent upon their willingness to abide by all of the requirements for a satellite school.

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

New Charter School Recommendations:

Brian Allen, Chairman of the State Charter School Board presented the recommendation from the State Charter School Board to approve the Bear River Charter School (Logan School District), grades K-7, with 180 students. He indicated that the State Charter School Board had concerns with the transfer of assets from the private school to the charter school. They were assured that everything was done and there was an arms length between the schools.

Member Teresa L. Theurer spoke in favor of approving the Bear River Charter School and commented on the positive service it provides to students in the area.

Motion was made by Member Teresa L. Theurer and seconded by Member Bill Colbert to approve the Bear River Charter School charter, including a waiver of the November 30 rule deadline.

Member Tom Gregory commented that the application deadline has given the State Board very little or no wiggle room should there be concerns with the recommendations from the State Charter School Board. He asked that the application deadline and process be reviewed.

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

(For complete details see General Exhibit No. 10739.)

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Northern Utah Academy for Math,
Engineering, and Science Amendment

Brian Allen, Chairman of the State Charter School Board presented the following recommendation from the State Charter School Board.

Northern Utah Academy for Math, Engineering and Science (NUAMES) opened in the 2004-2005 school year in Layton, Utah and serves grades 10-12, 375 students. NUAMES requests to make amendments to its charter agreement with the state mainly in the area of governance. The State Charter School Board unanimously voted to recommend the change to the NUAMES charter agreement for approval by the State Board of Education. (For complete details see General Exhibit No. 10740.)

Motion was made by Member Bill Colbert and seconded by Member Mark Cluff to approve the recommendation of the State Charter School Board for changes to the governance structure of the Northern Utah Academy for Math, Engineering, and Science Charter School. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Member Mackey absent.

Mr. Allen thanked the board members leaving the board for their service and commented on the quality of those individuals.

Beehive Science and Technology
Academy Appeal Recommendation

The State Charter School Board (SCSB) at its meeting on October 22, 2008 voted to not recommend that Beehive Science and Technology Academy receive a satellite school to serve 975 students in grades K-12 for the 2010-2011 school year. The Charter School Board requested that the school “show full enrollment of 450 students with a wait list at its current location.” The Beehive Science and Technology Academy appeal letter sent to Superintendent Patti Harrington outlines several items that were discussed by the State Charter School Board, but were not the reason for non recommendation.

Beehive Science & Technology Academy’s enrollment is increasing. The State Charter School Board recognized the school’s effort to recruit and retain students. However, as the school is only at 59 percent capacity the State Charter School Board felt the school should fill at its current location before adding a second location with an additional 975 students.

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A hearing panel of four Board Members (Tom Gregory, Chair, Dixie Allen, Mark Cluff and Richard Moss) with Carol Lear as the designated hearing officer, heard the appeal on December 1, 2008.

Member Tom Gregory presented the hearing panel's report and recommendations relative to the State Charter School Board's denial for a satellite campus for Beehive Science and Technology Academy. (For complete details see General Exhibit No. 10741.)

Motion was made by Member Thomas Gregory and seconded by Member Richard Moss that the Board ask the State Charter School Board to reconsider the Beehive Science and Technology Academy's request including information received from Beehive and the State Charter School Section. Further, that the Utah State Office of Education Charter School staff and State Charter School Board consider developing and using a rubric for scoring and approving charter schools. Further, if the State Charter School Board approves the application that it be final and would not need further approval by the State Board of Education. And further, that the November 30 deadline rule be waived.

Member Bill Colbert suggested that if the State Charter School Board approves application, then it be put on the General Consent Calendar of the State Board of Education for approval.

Discussion ensued relative to making the decision of the State Charter School Board final without the matter coming back to the State Board of Education for final approval.

Members Burningham and Morrill spoke against approving the charter in advance of the State Charter School Board rehearing of the matter.

Motion was made by Member Kim Burningham to divide the motion, one for the first two paragraphs and the third paragraph separately.

Member Thomas Gregory requested that in lieu of the request would Member Burningham be willing to amend this that the action to approve the request by the State Charter School Board come back to the State Board of Education for approval.

Amendment to the motion that this will come back to the State Board of Education if the State Charter School Board approves it, and if it is denied this is the final decision was accepted.

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

One-time Performance-based Compensation Program

The One-time Performance-based Compensation Program (OTPBCP) was created in the 2008 General Session (53A-17a-148). The program appropriation of \$20 million came from the non-lapsing minimum school program fund balance and was a “one-time” appropriation.

In its November meeting, the State Board of Education made recommendations regarding necessary budget reductions due to anticipated revenue shortfalls. Part of the Board’s recommendation was that the \$20 million appropriated in FY09 to the OTBPBCP be reallocated to maintain as much of the Minimum School Program as possible in FY 10 (or, if necessary, to maintain on-going programs in FY09). The Education Appropriations Subcommittee met on November 21 to discuss budget reductions. At that time, it was agreed that the timing of distribution of funds in the OTPBCP was at the discretion of the State Board and that it would be in the interest of all to delay distribution for the time being.

On December 4, Governor Huntsman announced his public education budget recommendations for FY10, as well as for the remainder of FY09. Though not explicitly stated in his budget, an underlying assumption that makes the numbers work is the reallocation of the \$20 million from the OTPBCP to maintain the on-going elements of the Minimum School Program.

Reallocation of the \$20 million appropriated to the OTPBCP will require legislative action, so none of the recommendations above mean final action. However, given current budget concerns, the Utah State Office of Education could delay distribution of the OTPBCP funds until further notice. Because the program was intended to pay performance “bonuses” at the end of the year, this delay in the distribution of funds would have no immediate effect.

Deputy Superintendent Larry Shumway reported that all of the governing boards of all of the schools who submitted one-time performance based compensation plans have submitted verification that they have considered and approved their school or district plan. The process is now completed.

Dr. Shumway noted that in its November meeting, the State Board of Education made recommendations relative to the \$75 million budget reduction that the One Time Performance-

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based Compensation Program funds could be held back as part of the budget reduction. Since that time there has been an Education Appropriations Subcommittee meeting at which we spoke on this issue, and at the time it was the consensus of the legislators on the committee that it would be prudent for us not to distribute the money according to the previously adopted time line which was for December distribution.

The recommendation for the Board is whether or not to authorize the administration to hold back on those funds, even though the rule R277-109 had a time line for a December distribution. This would not be a decision relative to the use of the funds, simply authorization for the office to delay distribution until some future date yet to be determined.

Member Dixie Allen voiced apprehension of changing the board rule at this late date.

Motion was made by Member Janet A. Cannon and seconded by Member Thomas Gregory that the Board delay the distribution of funds and set aside the December 8th date in the rule. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Member Mackey absent.

(For complete details see General Exhibit No.10742.)

Executive Officer Report

Superintendent Patti Harrington presented the following items of information:

Shared information of the newly named Secretary of Education, Arne Duncan.

1. Utah is one of five states in the nation that has reached all ten goals of the Data Quality Campaign, a national campaign affiliated with the Council of Chief State School Officers (CCSSO).

2. The *My Access* writing software program continues to help our students improve their writing across the state. Impressive gains are being obtained in many districts and schools. In order to keep *My Access* in our schools, as presently configured, we will need \$3.3 million next year from the legislature.

3. As part of the pilot projects in assessment, a new accountability plan will be structured. Associate Superintendent Judy Park will lead the work with assistance from Brenda Hales. Dr. Harrington requested that a Board Member be a part of the development of the accountability plan. Members Dixie Allen and Janet Cannon were appointed to be part of that development committee.

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Discussion Items:

Superintendent Harrington shared a letter of concern from the Kane School District seeking help from the Board to reduce the impact high school activities are having on academic seat time and budgets. He feels there is so much pressure by athletic directors and coaches to maintain heavy schedules that academic seat time is being trumped by these athletic schedules.

Dr. Harrington commented that if the Board would like to begin dialogue on this we could route it through one of the Standing Committees to give careful consideration to it.

Member Teresa Theurer reported that she served on the Utah High School Activities Association committee assigned to discuss this issue. Superintendent Johnson served on this committee as well. This is a difficult issue, and she indicated that the Board of Trustees on the Utah High School Activities Association is made up of local board members. Any time the State Board would consider stepping in, we need to remember the composition of the board. Secondly, the whole thing was called contest limitations. The UHSAA sets up a maximum number of games that each sport can do. There is no minimum. Every district, every school, every classification determines their own schedule. The only games they have to play are the region games. The Committee made a suggestion that some of the schools get together as a classification or region and set your own contest limitations if you choose to.

Also, there was quite a bit of concern that came about by private schools. Private schools have been a part of the Association for a long time and the Association has a great relationship with private schools. There is at least one board member from a private school. The result of the Board of Trustees was to encourage and require individual classifications to come up with ways to keep student in class longer. There are ways districts can do this to maintain keeping the kids in the classroom. The discussion is happening and this decision was not made lightly. She cautioned the Board to really give this some thought before they step in, because the Board of Trustees is made up of local board members.

Member Kim Burningham commented that to sidestep this issue is sidestepping the Board's responsibility to this other group. He suggested that the Board open this up.

Member Denis Morrill spoke against the issue. He stated that the tail is wagging the dog and it has for years. Every time you step up and want to do something about it the dog bites, but we need to do something about it. This is getting out of hand and the Board needs to supervise the Utah High School Activities Association.

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Member Tom Gregory commented that the Board should make a public statement to the effect that we think it would be remiss of the UHSAA to not consider reduction in events at the same time that our public education dollars are being reduced for other critical services. We need to have a stronger voice and more input because the Board represents all citizens of the state.

Member Dixie Allen commented that the rural schools of Utah have less voice than those along the Wasatch Front. They travel more and have less seat time because of the travel distances. She suggested that the Board write a Memorandum of Understanding to the Utah High School Athletic Association with copies to the Superintendents outlining our deep concern about academic time and the safety and cost issues.

Chairman Sadler asked Member Allen and other board members to bring to the leadership and the Board a draft of such document.

Member Theurer commented that this is another situation where superintendents may be want to have someone else to make a hard decision for them. This could easily be made at a district or school level.

Member Greg Haws commented that he would like to see the message go out that if they are not willing to make that decision there are some sitting around the table that are willing to make it. We never hear a reduction in activities as a discussion when we talk about budget cuts. If we are having a 10% reduction in our allocation of costs, it would seem there would be a 10% reduction in activities.

(For complete details see General Exhibit No. 10743.)

Public Participation/Comment

No comments were received. It was noted that Steve Peterson representing the Utah School Superintendents Association had requested time but was not present.

Executive Session

Motion was made by Member Thomas Gregory and seconded by Member Dixie Allen to move into an executive session for the purpose of discussing personnel issues. The Board was polled and by unanimous consent of those present the Board moved into an executive session following lunch at 12:35 p.m.

Motion was made by Member Laurel Brown and seconded by Member Dixie Allen to reconvene into open meeting. Meeting reconvened at 1:05 p.m.

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Utah Professional Practices Advisory Commission Recommendations

Motion was made by Member Thomas Gregory and seconded by Member Michael Jensen to adopt the recommendation of the Utah Professional Practices Advisory Commission and the hearing panel in Case No. 04-689 and reinstate the license of a former educator in the Washington School District. The license was previously suspended as a result of the educator reporting to work under the influence of controlled substances. The behavior is mitigated by her intensive treatment for addiction. It was noted that the hearing report was reviewed by the Board during Executive Session. Motion carried unanimously.

Motion was made by Member Thomas Gregory and seconded by Member Bill Colbert to adopt the recommendation of the Utah Professional Practices Advisory Commission recommendation in Case No. 07-801 and the appeal denied by Superintendent Patti Harrington. The educator was most recently employed at Diamond Ranch Academy. The educator appealed the UPPAC recommendation that his license be suspended for five years; the recommendation followed a day-long hearing and was based on the educator's inappropriate sexual conduct with an adoptive daughter while she was a minor. The UPPAC recommendation for a five-year suspension from the date of formal action by the State Board of Education was upheld. Motion carried unanimously.

Motion was made by Member Thomas Gregory and seconded by Member Michael Jensen to accept the recommendation of the Utah Professional Practices Advisory Commission in Case No. 08-854 and accept a stipulated agreement, including conditions of the agreement, whereby a former teacher in the Davis School District voluntarily surrenders his educator license in lieu of a hearing for suspension of his license for one year from the date of formal action by the State Board of Education. The educator must apply, have a reinstatement hearing, and the State Board of Education must determine that reinstatement is warranted prior to the reinstatement of his license. The educator showed middle school students a short film depicting a Russian Roulette competition. Motion carried unanimously.

(For complete details see General Exhibit No. 10744.)

Coalition of Minorities Advisory Committee (CMAC)

Motion was made by Member Denis R. Morrill and seconded by Member Dixie allen to appoint: George Henry and Spencer Isaiah representing African Americans; Aida SantosMattingly JeanetteMisaka (term expires 12/31/09); representing Asians; and Debbie

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Corsino-Moore and Hector Mendiola, Representing Hispanic/Latinos. All others expire 12/31/2010.)

Election of Board Officers

Two Board Members, Dixie Allen and Debra Roberts were running for Chairman of the Board. Each were given two minutes to comment on their goals and strengths in serving in this position.

By ballot, the Board elected Debra G. Roberts, Chairman of the Board.

Three Board Members, Kim Burningham, Janet Cannon, and Denis Morrill were running for Vice Chairman. Each were given two minutes to comment on their goals and strengths in serving in this position.

The three members all withdrew their names in support of Dixie Allen as Vice Chairman if she would accept the nomination.

Dixie Allen indicated she would be willing to serve as Vice Chairman. Motion was made by Member Janet A. Cannon and seconded by Member Laurel O. Brown to elect Dixie Allen, Vice Chairman of the Board by acclamation. Motion carried unanimously.

Public Participation/Comment

Steven Peterson, Executive Director of the Utah School Superintendents Association commented on the Curriculum Committee's agenda Item 2B, Comprehensive Counseling and Guidance Program, R277-462. He commented that the ratio of counselors to students is a local issue as well as a financial one. During the September 8, 2008 Utah School Superintendents Meeting the issue was discussed by the Superintendent Harrington and her staff, and a motion was passed unanimously by the USSA against the proposal indicating it was an unfunded mandate of the state. They felt the recommendation is more pertinent today than it was three months ago because of the economic downturn and impending budget cuts. The ratio is a problematic issue for the school districts of the state. Although the immediate penalties have been removed from the rule, the rule still sets up school districts negatively. Also, superintendents feel that even if the legislature were to hold public education harmless, school districts will be cutting budgets. The superintendents request that the Board not mandate new programs or expenditures at this time.

Other

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Member Laurel Brown shared a Public Education Statement from the Public Education Coalition. (For complete details see General Exhibit No. 10745.)

Motion was made by Member and seconded by Member Teresa L. Theurer that the Board consent to have its name added to the signers of the Statement.

Member Debra Roberts questioned if it would it be better to have our statement stand as our signature on this?

Member Kim Burningham indicated he was troubled by the resolution, but we should vote in favor of it. He voiced concern, that if we put all the emphasis on WPU funding and do not put adequate attention to line item funding we loose our ability to create change.

Vice Chairman Mark Cluff commented that we need to get as much funding into the WPU but we also need to allow flexibility in schools, but with the caveat that we as general control and supervision need to hold them accountable for how they are using the funds. He did not feel the board has ever held them accountable.

Motion carried unanimously.

Board Standing Committee Reports

Finance Committee

Member Greg W. Haws, Chairman of the Finance Committee presented the following recommendations from the committee:

Utah Schools for the Deaf and the Blind Capital Projects Funding

During the October Board meeting the finance committee reviewed a number of capital funding mechanisms for the Utah Schools for the Deaf and the Blind (USDB). Four funding options were selected for further review:

- Carry Forward Balances
- Capital Foundation Program
- Basic Rate Add-on
- Building Board Rule Variance

The Committee reviewed the list of options and recommended viable options in response to Representative Bigelow's request. (For complete details see General Exhibit No. 10746.)

Motion from the Committee that the Board recommend the above viable capital project funding options for the Utah Schools for the Deaf and the Blind to be considered for

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possible legislation in the 2009 general session of the legislature. Motion carried with Members Allen, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Mackey, Morrill, Moss, Roberts and Theurer voting in favor; Member Brown absent.

Charter School Revolving Loan
Subcommittee Recommendations

House Bill 164, 3rd 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, Michael Jensen and Marlies Burns (non-voting) 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.

The Charter School Revolving Loan Subcommittee met, and the State Charter School Board recommends the State Board approve an addendum to the loan of Beehive Science & Technology Academy in the amount of \$184,210. (For complete details see General Exhibit No. 10747.)

Motion from the Committee that the Board approve the loan addendum for Beehive Science & Technology Academy in the amount of \$184,210. Motion carried unanimously.

Governor Huntsman's Budget Recommendations
for Public Education

State law requires the Governor to deliver a confidential draft copy of his budget recommendations to the Legislative Fiscal Analysts Office 34 days before submission to the legislature (UCA 63J-1-201(2)). The release of the confidential copy of the budget recommendations has traditionally been publicly released by mid December. The budget recommendations propose an overall state funding strategy based on current revenue estimates and, in particular, the funding strategy for public education for FY 2009 and FY 2010.

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The Finance Committee reviewed the Governor's budget recommendations for public education as well as the overall funding strategy for FY 2009 and FY 2010. (For complete details see General Exhibit No. 10748.)

No action was required.

Modifications to the Charter School Building
Revolving Loan Application

During the October Board meeting Mike Anderson, chair of the Charter School Building Subaccount Committee, presented several policy and procedural guidelines to enhance the effectiveness of the Subaccount Committee's work as well as to protect the state's interest in loans approved by the Committee. The Finance Committee directed staff to develop guidelines to be used by the Subaccount Committee for review at the next Board meeting.

The State Charter School Board directed staff to modify the application process to incorporate concerns raised by Mr. Anderson and other concerns. The modifications are designed to improve the application process and minimize the risk of loan default.

The Finance committee apprised the Board of recommended modifications and provided additional input to the review criteria of the loan application. (For complete details see General Exhibit No. 10749.)

No action was required.

Severance Tax as a Means to Fund Public Education

The rise in oil prices over the past few years has spurred substantial growth in the oil and gas industry. Utah has seen significant growth in severance tax collections within its borders. The latest Tax Commission Report (11/13/2008) on revenue collections shows a 159.1% increase in the first four months of this year over the same four months in 2008 in oil and gas severance tax collections. This growth appears while all other major tax sources in the state are declining.

Severance tax as a means to fund state programs has received much attention from many quarters of the state. In the 2008 general session of the legislature, HB 58, *Severance Tax Amendments*, established a base collection amount above which collections are directed to the state's permanent trust fund. The interest continued in this redirection as the Utah Tax Review Commission proposed at the November Revenue and Taxation Committee interim meeting that

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the Revenue and Taxation should consider passing a bill that would phase out the base amount over six years and direct all funding to the permanent state trust fund.

The Committee was briefed on the current status of severance tax collections and uses in the state and explored the possibilities of directing severance tax for public education purposes. (For complete details see General Exhibit No. 10750.)

No action was required.

Annual Financial Review of the Utah State Office of Education, the Utah State Office of Rehabilitation, and the Utah Schools for the Deaf and the Blind

The Finance Committee is periodically apprised of the finances and budgets of each of the agencies that fall under the purview of the State Board of Education. They received the review of the financial status of these three agencies. (For complete details see General Exhibit No. 10751.)

No action was required.

Internal Audit Procedures

Board leadership has directed the Finance Committee to review the function of the internal audits as they relate to issues of confidentiality; superintendent's role in review, response, and discussion of audits in audit meetings; priority of assignments; and, other business practices.

The Finance Committee reviewed current audit procedures and practices and discussed ways to improve the effectiveness of the internal audit efforts and oversight by the audit committee of the Board. (For complete details see General Exhibit No. 10752.)

Member Haws asked the Board Members for their input in this endeavor. This will go back to the Audit Committee. They will be going through items that are most at risk.

No action was required.

Curriculum Committee

Member Teresa Theurer chairman of the Curriculum Committee presented the following recommendations from the Committee:

Comprehensive Counseling and Guidance Program, R277-462

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At the November 7, 2008 meeting, the Curriculum and Instruction Committee approved R277-462, Comprehensive Counseling and Guidance Program on first reading. The amendments included the following requirements: 1) counselor to student ratios of 1 to 350 or better, or a plan for compliance from the local district or charter school approved by the Board; and 2) policies and practices in school districts and charter schools are in place to free licensed school counselors for appropriate activities with students. This will ensure that licensed school counselors are not devoting significant time to non-school counseling activities.

The Committee directed staff to contact charter schools for their comments on the proposed amendments and to bring the rule back in December for second reading.

Staff reviewed the feedback from charter schools and any revisions based on their comments to the amendments on R277-462, Comprehensive Counseling and Guidance Program, with the Committee. (For complete details see General Exhibit No. 10753.)

The Committee made an amendment to R277-462-3(6) to add the word “reasonable” prior to amount. The paragraph would then read: If a charter school requires assistance from a school district in conducting the charter school’s on-site review, the charter school shall compensate the school district in a reasonable amount agreed upon between the school district and the charter school.

The Committee approved the amendments to R277-462, Comprehensive Counseling and Guidance Programs on second reading and moves that the Board approve R277-462 on third and final reading. Further, that a letter be sent to districts to let them know that the counseling issue is a board priority, and this rule is part of the declaration of the Boards vision for education in Utah. However, we do understand and respect their concerns in the timing of this, but remind the Board that at one point we had financial sanctions included that are no longer there. The Board would just like a plan, if they are not at that ratio of how they anticipate getting there. Also to understand we do not expect big changes this year and we understand the economic times. However, we look forward to seeing change as conditions improve. By passing the rule at this time we believe will raise the visibility of this issue.

Member Dixie Allen commented that if it is the right thing to do, there is no right time to do it except right now.

Member Kim Burningham commented that we have received strong statements from superintendents about the constraint this will put on them during these lean economic times.

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However, we need to do something about the counselor ratio. Also, the rule has been modified considerably from the original one. This does not put an ultimatum on the districts, it provides planning time.

Member Burningham questioned how many districts do not meet this 350 to 1 counselor ratio. Dawn Kay Stevenson, Coordinator, Student Services and Comprehensive Guidance, commented that 80% of districts are within one or two positions of meeting the 350 to 1 ratio. Right now there are 19 of the 20 districts fully meet the ratio and a commitment from Wasatch School District to meet that ratio in the next year. Member Burningham spoke in favor of the motion.

Vice Chairman Mark Cluff commented that he is glad it has been modified as it is now because it is a local district issue. It is the responsibility of the Board to make recommendations of where we feel the state should be going and encouraging planning to get to that location. He will be supporting it, but hesitantly. He expressed appreciation for the input we have received from superintendents.

Member Greg Haws, questioned if there was a possibility to delay enactment of the changes for one year?

Chairman Sadler indicated that the issue has been discussed for a long period of time. He suggested to the new board leadership they consider inviting local superintendents to lunch for discussion of these types of items.

Chairman Sadler indicated that at the current time the motion is to accept this as written.

Member Greg Haws offered an amendment to the motion to have the effective date in one year. There being no second, the amendment to the motion died.

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

Adult Education Programs, R277-733

As a result of the recent adult education legislative audit, R277-733, Adult Education Programs is amended to define the parameters of Utah residency, including the need for persons to provide proof of residency at the time of enrollment in an adult education program, and to define the documentation adult education program staff must obtain at the time of registration.

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The legislative audit also showed an issue with the awarding of adult education program funds for passing the GED test and for completion of a Carnegie unit adult education diploma. R277-733 is also amended to define parameters associated with youth (16 years of age or older) who may choose to exit K-12 in favor of participating in adult education, and to define the successful completion of the five GED tests as a Utah High School Equivalency Diploma.

Staff reviewed the amendments to R277-0733 Adult Education Programs. (For complete details see General Exhibit No. 10754.)

The Committee amended the rule to change Equivalency Diploma to School Completion Diploma; secondly, allowing 16 year olds to take the GED. An additional change to R277-743-7.D. add (5) to read: "An out-of-school youth of school age who has successfully completed an Adult Education Secondary Diploma or a Utah High School Completion Diploma shall be reported as a graduate for K-12 graduation AYP outcomes. Also, (6) An out-of-school youth of school age may be considered eligible to take the GED Test if all requirements are stated in R277-702, Procedures for Utah General Educational Development Certificate, are followed.

The Curriculum and Instruction Committee approved the amendments to R277-733, Adult Education Programs on first reading and moves that the Board approve R277-733 on second reading. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Member Mackey absent.

Law & Policy Committee

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

Educator Licensing - Highly Qualified Assignments, R277-510

Board Rule R277-510 Educator Licensing - Highly Qualified Assignments establishes requirements relative to NCLB and federal requirements for designation of teachers and assignments as "highly qualified." In 2006 the Board set the standard for teachers of multiple subjects in necessarily existent small schools. In recent communication, the U.S. Department of Education determined that our standard for these teachers does not meet the requirements of NCLB. Specifically, the Department has determined that the "fundamental multi-subject test" as

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designated in the Board's current rule cannot be used to establish highly qualified status for a teacher. Additionally, ETS, our state teacher contest test provider, has indicated that they will no longer allow use of the multi-subject test for this purpose.

The Committee considered the amendments to R277-510 *Educator Licensing - Highly Qualified Assignments*, which are minor clarifying changes and will bring the rule into compliance with recent communication from the U.S. Department of Education and ETS. (For complete details see General Exhibit No. 10755.)

The Committee approved the amendments to R277-510 Educator Licensing - Highly Qualified Assignments on first reading and moves that the Board approve R277-510 on second reading. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Member Mackey absent.

Student Teacher and Intern
Licenses, R277-509

Utah Code Title 53A Chapter 6 requires licensure of educators, including student teachers and educators. The licensure process established in Board Rules protects children and ensures appropriate preparation. Board Rule R277-509 *Student Teacher and Intern Licenses* relates to the procedures and requirements for student teachers and interns. The recent transition of licensure processes to on-line systems has eliminated the need for some university, district, and charter school procedural requirements. The processes of the on-line system now manages the information without some of the previously required reporting.

The Committee considered the amendments to R277-509. (For complete details see General Exhibit No. 10756.)

The Committee approved the amendments to R277-509 Student Teacher and Intern Licenses on first reading and moves that the Board approve R277-509 on second reading. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Member Mackey absent.

Duchesne School District Four-day
Week Waiver Request

R277-419-3 *Minimum School Days* requires that LEAs conduct school for at least 990 instructional hours and 180 days. The Duchesne School District has requested a variance to this rule to allow a four-day school week for two schools in the district: Tabiona High School and

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Tabiona Elementary School. The procedure for consideration of a waiver requires that the Board conduct a thorough review of available data and make a “data driven decision.”

The Law and Policy Committee considered the request for waiver from Duchesne School District based on the data the district provided to support the request. (For complete details see General Exhibit No. 10757.)

Motion from the Committee that the Board approve moving forward with the development of a contract for Duchesne School District for the four day week for Tabiona High School and Elementary School. It was noted that this contract will return to the Board next month for approval. This contract is similar to the one provided for the Rich School District’s request for a four-day week. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Member Mackey absent.

The Committee further requested staff create philosophy statement of what we would consider a four-day week.

Differentiated Compensation Work Group

In March, the Board appointed a Differentiated Compensation Work Group. This group is co-chaired by Board Member Debra Roberts and Deputy Superintendent Larry Shumway. The group has been meeting regularly since that time. Members of the group include Board members, USOE staff, teachers, principals, superintendents, CMAC representatives, and parents.

The co-chairs of the Differentiated Compensation Work Group presented the work and conclusions of the Group thus far to the Committee. The Committee discussed the work of the Work Group. (For complete details see General Exhibit No. 10758.)

No action was required.

General Consent Calendar

Motion was made by Member Thomas Gregory and seconded by Member Denis R. Morrill to approve the General Consent Calendar as presented. Motion carried with Members Allen, Brown, Burningham, Cannon, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, Roberts and Theurer voting in favor; Member Mackey absent.

1. Minutes of Previous Meeting

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Minutes of the Meeting of the State Board of Education held November 7, 2008.

2. Contracts

The following contracts were approved by the Board:

(1) Utah Department of Health. \$25,000. 7/1/08-6/30/09 RECEIVABLE

To provide funds for salaries and benefits for the Utah State Office of Education Pre-K Specialist.

(2) Utah Department of Health. \$50,200. 8/1/08-12/31/08 - Amend. Fed. RECEIVABLE

To increase employment for people with disabilities.

(3) Department of Workforce Services. \$200,000. 10/1/08-9/30/09 - Amend. RECEIVABLE.

Provide funding to expand existing ESL programs and/or develop additional ESL programs that focus on the needs of refugees to increase refugee participation, acquisition of English oral and literate language skills. Consideration of a refugee's need to obtain or maintain employment and/or meeting other public assistance program requirements should be made. During this amendment year focus will be with refugees being resettled in Cache Valley.

(4) EquiWest - Steve Pruitt. \$99,887. 10/20/2008-7/31/2013. Amend. - Fed.

Lease of office space for Disability Determination Services located at 210 W Harris Avenue, Salt Lake City, Utah.

(5) Kurt & Linda Sorenson. \$120,319.20. 4/1/2009-3/31/2014. - Amend. - Fed.

To lease office space for the Division of Rehabilitation Services office located at 520 E Topaz Boulevard, Suite 107, Delta, Utah.

(6) i Assessment dba TrueNorthLogic. \$225,000. 11/1/08-7/31/09. - Fed.

Licensed software for program and grant management

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(7) Imagine Learning Incorporated. \$3,000,000. 12/15/08-11/30/09.

To increase parent involvement and communication of those parents that are not proficient in English with the ultimate goal of increasing student achievement in literacy and language skills.

(For complete details see General Exhibit No. 10759.)

3. Educator Licensing Requests for Temporary Authorization

Requests for Temporary Authorizations as submitted by the school districts were approved by the State Board of Education. (For complete details see General Exhibit No. 10760.)

4. Utah State Board of Education Procedures, R277-101

Members of the State Board of Education on occasion may wish that the Board reconsider previous actions. Staff has prepared procedures to be included in Board rule to guide the Board in this process. Further, there are from time to time requests made to the Board for waiver of a Board rule or decision in regards to its application to a particular Local education agency.

The Board approved the amendments to R277-101 on second reading at its November 7, 2008 meeting. There have been no substantive changes to the rule since that time. The Board approved R277-101, Utah State Board of Education Procedures on third and final reading. (For complete details see General Exhibit No. 10761.)

5. Utah State Board of Education Protected Documents, R277-117

Legislation frequently assigns responsibility to the State Board of Education for the development of requests for proposals (RFPs) or requests for grant applications as needed to implement statutory programs. The development process must remain free of individual interests or undue advantages to vendors. Thus, to ensure an efficient, confidential, and fair development process, it seems necessary to provide a protected process for the development of RFPs within the State Office of Education.

The Board approved R277-117 on second reading at its November 7, 2008 meeting. There have been no substantive changes to the rule since that time. The Board approve R277-117, Utah State Board of Education Protected Documents on third and final reading. (For complete details see General Exhibit No. 10762.)

6. Testing Procedures, R277-473, Secondary School Completion and Diplomas, R277-705, and The Elementary and Secondary School Core Curriculum, R277-700

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S.B. 2002, Student Achievement Testing Exceptions, passed in the 2008 Second Special Session by the Utah Legislature, gives the Board authority to waive portions of the U-PASS testing system for school districts and charter schools participating in the Blue Ribbon Panel assessment pilot program. In its October 3, 2008 meeting, the Board authorized the creation of several testing pilot programs. To address the resulting changes in testing and graduation requirements for the pilot R277-473, Testing Procedures, R277-705, Secondary Completion and Diplomas, and R277-700, The Elementary and Secondary School Core Curriculum have been amended.

The Board approved R277-473, R277-705, and R277-700 on second reading at its November 7, 2008 meeting. There have been no substantive changes to the rules since that time. The Board approved Testing Procedures, R277-472, Secondary School Completion and Diplomas, R277-705, and The Elementary and Secondary School Core Curriculum, R277-700 on third and final reading. (For complete details see General Exhibit No. 10763.)

7. Instructional Materials Commission Operating Procedures, R277-469

Instructional Materials Commission Operating Procedures, R277-469 was amended to include the requirement that all publishers of textbooks and text materials purchased by traditional and charter public schools are required to provide electronic files of instructional materials to the national Instructional materials Access Center (NIMAC), consistent with federal regulations. Authorized users will be able to download and convert the files into accessible instructional materials for students with print disabilities. This will ensure that all students have all necessary textbooks, workbooks, and other student materials and supplements to fully participate in course work.

The Board approved R277-469 on second reading at its November 7, 2008 meeting. There have been no substantive changes to the rule since that time. The Board approve R277-469, Instructional Materials Commission Operating Procedures on third and final reading. (For complete details see General Exhibit No. 10764.)

8. USBE Annual Calendar

The Utah State Board of Education Annual Calendar for 2008 was provided for information to the Board. (For complete details see General Exhibit No. 10765.)

9. 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. 10766.)

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10. Visually Handicapped Trust Fund Expenditures

The Division of Services for the Blind and Visually Impaired Advisory Council at their meeting in October 2008, unanimously approved the following grants totaling \$17,958 to be paid out of the Visually Handicapped Trust Fund interest.

Utah Council of the Blind: Braille Literacy Project - \$3,160
Utah Council of the Blind: Subsidized Cab Coupon Program - \$3,160
Utah Council of the Blind: Ceramics Classes - \$988
Utah Foundation for the Blind - Adult Goalball Program - \$1,778
The Braille Resource & Literacy Center - \$2,647
Ogden Association of the Blind: The Ride - \$1,975
Utah Council of the Blind: Adaptive Technology - \$2,370
Ogden Association of the Blind: Find a Way Support Service Project - \$1,880

The Board approved the above expenditures from the Visually Handicapped Trust Fund interest.

11. Utah State Instructional Materials Commission Recommendations

On November 21, 2008, the Utah State Instructional Materials Commission met and approved approximately 1,108 titles for recommendation to the Board. The Commission also recommended that the Board accept the bids received from the publishers and direct staff to award contracts to the publishers to furnish instructional materials to the schools of Utah. The Board approved the recommendations by the State Instructional Materials Commission and directed staff to award contracts to the various publishers. (For complete details see General Exhibit No. 10767.)

12. List of Applicants for Licenses

The list of applicants for initial and renewal licenses was approved by the Board. (For complete details see General Exhibit No. 10768.)

13. Claims Report

The Claims Reports in the amounts of \$251,239,619.17 and \$256,352,437.76 respectively for October 31, 2008 and November 30, 2008 were approved by the Board. (For complete details see General Exhibit No 10769.)

Board Chairman Report

Chairman Richard Sadler presented the following items of information.

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1. Audit Committee Report

Chairman Sadler reported that the Audit Committee met December 15, 2008 and discussed temporary measures relating to the independence of internal auditors and the involvement of the state superintendent with the audit committee and process.

The Audit Committee reviewed and approved release of the following audit reports: Electronic High School; School Community Councils; and Highly Impacted Schools.

The Audit Committee approved the following audits to be performed: Extracurricular activity funding; review of C-20 grants given to fiscal agents; and accuracy and completeness of October 1 counts done by district and charter contracted auditors (ADM accuracy).

2. Calendar of Activities

In addition to the calendaring items listed on the Chairman report, Chairman Sadler noted that on December 12, 2009 there will be a meeting with the Governor and the Board of Regents in the Board Room at the Capitol from 2:00 -3:00 p.m.

(For complete details see General Exhibit No. 10769.)

Chairman Sadler asked each of the departing members of the Board to take a couple of minutes to express their feelings about serving on the Board. Board Members Teresa Theurer, Thomas Gregory, Bill Colbert, Randall Mackey, Mark Cluff and Chairman Sadler each commented.

Recognition of Outgoing Board Members

Board Members Mark Cluff, Bill Colbert, Thomas Gregory, Randall Mackey, Richard Sadler and Teresa L. Theurer were recognized for their service on the Board and were presented with a School Bell Plaque.

Chairman Richard Sadler was presented a gavel for his service as chairman of the board for the past year.

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

Meeting adjourned at 3:10 p.m.