

MINUTES

February 5, 2010

Minutes of the meeting of the State Board of Education held February 5, 2010, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 8:05 a.m Chair Debra G. Roberts, presided.

Members present were:

Chairman Debra G. Roberts
Vice Chairman Dixie L. Allen
Member Laurel O. Brown
Member Kim R. Burningham
Member Janet A. Cannon
Member Leslie B. Castle
Member Rosanita Cespedes
Member Craig E. Coleman
Member David Crandall
Member Robert R. DePoe
Member Greg W. Haws
Member Meghan Holbrook
Member Michael G. Jensen
Member Tamara Lowe
Member Denis R. Morrill
Member Carol A. Murphy
Member C. Mark Openshaw
Member David L. Thomas

Member Douglas J. Holmes was excused.

Also present were:

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

Members of the Press:

Lisa Schencker, Salt Lake Tribune
Amy Stewart, Deseret Morning News
Richard Nelson, Utah Technology Council
Steven Shurtz, Brinks Hofer Gilson & Lione
Hugo Rossi, University of Utah
Oak Norton, Utahs Republic
Gregg Rosorn, The American Academy
Don White, Utah Technology Council
Cameron Martin, USHE

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Kirk Sitterud, Superintendent, Emery School District
David Rettie, Granite School District
Jane Lindsey, Granite School District
Ray Timothy, Superintendent, Park City School District
Aaron Jorgen, Utah Technology Council
Ann Gubler, Excelsior Academy
Duke Mossman, NUES
Glen Taylor, CUES
Kristina Kind, Attorney General's Office

Welcome

Board Member Janet A. Cannon led the Board in the Pledge of Allegiance.

Board Member Laurel O. Brown welcomed everyone to the meeting and talked about one of the subgroups indicated in the Promises to Keep wherein it states many times “for all Utah children.” She spoke about one of those subgroups, the refugee population. She shared information on the growing population in Utah of refugees who are now our school children. She then shared a poem entitled “Coward Silence.” (For complete details of the information see General Exhibit No. 11104.)

Best Practices

Jane Lindsay, Director of Elementary Schools, Granite School District shared how their teaching standards, evaluation system, data collection and corrective discipline make a difference in school improvement and instructional quality. Janice Flanagan an elementary principal and Dave Reattie a secondary principal described their work in classrooms assessing instruction and how they use multiple data sources to make employment decisions and provide professional growth opportunities. They shared examples of data collection tools. (For complete details see General Exhibit No. 11105.)

Public Participation/Comment

Richard R. Nelson, President & CEO, Utah Technology Council, and other members of the Council presented some Industry Recommendations from the State Math Steering Committee. (For complete details see General Exhibit No. 11106.)

Superintendent Brent Thorne, Sevier School District representing Utah Rural Schools Association and Regional Service Centers spoke about the funding for Regional Service Centers. He indicated that these centers are vital if they are to meet the services to rural and small school districts. The concern is battling for a permanent solution. One of the recommendations from the Education Appropriations Committee is to cut the funding for the centers. He expressed a

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hope that the Board would take a strong position that Regional Service Centers be funded as a separate line item. The impact of federal lands in rural Utah is significant - therefore they rely on state funding.

Oak Norton delivered a Public Petition to Improve Constitutional Education in Utah. The petition gave proposed changes to the K-12 social studies standards. (For complete details see General Exhibit No. 11107.)

The Board recessed to Committee Meetings.

The Board reconvened at 11:00 a.m.

Achievement Spotlight

The Board recognized Shelley Allen, a physical education instructor at Midvale Middle School. Ms. Allen is also the coordinator of the building International Baccalaureate Middle Years Programme. Ms. Allen also headed up staff training initiatives, penned necessary applications and worked closely with International Baccalaureate Programme leaders to establish a firm foundation for the program. She has been working tirelessly to prepare the school, staff, and faculty to host the academically rigorous program in a community where poverty and English language skills are often key challenges in educating students. Ms. Allen is also the first Utah educator to earn National Board Certification in physical education.

The Board presented her with a flame plaque for her outstanding and dedicated work to Utah students and public education.

Legislative Update

Deputy Superintendent Martell Menlove reviewed proposed legislation with the Board and the Board took actions as noted.

HB 127 - Reproductive Health Education Amendment, Representative Hemingway and SB 54 - Health Education Amendments, Senator Urquhart. These bills deal with our health education curriculum, in particular sex education, abstinence, and the use of contraception. Both of these bills are identical.

Superintendent Shumway reported that these bills have been worked on for at least six months. There was a significant addition to the bill as it was numbered that added a lot of clean-up language in other sections of the bills that neither of the sponsors actually anticipated. The sponsors have asked that these be taken off because it added a fiscal note that was unnecessary to the purpose of the bill. The primary purpose of both bills is to clarify for health

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teachers in our state what they can teach. There are teachers who don't teach many things the curriculum allows out of fear that it may be illegal to mention. Others, also may go far too explicitly into certain kinds of things. The bill has a consensus across a wide group of people, i.e. PTA, other community interest groups and legislators.

Motion was made by Member Carol A. Murphy and seconded by Member C. Mark Openshaw that the State Board move forward with support of these two bills; noting that they do not solve all the problems, but it is a step in the right direction. Motion carried unanimously.

Dr. Menlove distributed an updated Legislative Tracking Sheet. (For complete details see General Exhibit No. 11108.)

Regional Service Centers

Dr. Menlove distributed a *Legislative Brief* that came from the Legislative Fiscal Analysts Office relative to a discussion in Appropriations Committee Meeting and a spread sheet indicating numbers explaining what has happened. (For complete details see General Exhibit No. 11109.) He reported that at the end of the 2009 legislative session in the Appropriations Bill last year the distribution of school administration funds was altered. Historically administration funds were distributed on a wpu basis based on the number of students in a district with larger districts receiving fewer, but at least some limited wpu's. The change in 2009 made it so the same amount of money was distributed, but now only to those districts with fewer than 5,000 students. Dr. Menlove reviewed the change in numbers to some of the school districts. The distribution favors or gives additional money to the smaller districts and is based on what is presumed to be a greater need to provide additional funding for those districts for administration. He then reviewed the regional service center that each district is associated with. There are some districts that participate in regional service centers but actually lost money through this change.

Dr. Menlove shared the information contained in the *Fiscal Analysts Briefing*. They are looking at where we can find a 5% reduction in the Utah State Office of Education budget in state dollars. We are currently trying to see where this can be cut from the USOE budget. We have had multiple conversations with the chairs of the appropriations subcommittee, Senator Stephenson and Representative Newbold. We have offered suggestions, however, we have not taken a formal position as to where those cuts might come within the office.

As a result of those conversations, the current provision in the State Office budget is for \$1,322,700 to go to regional service centers, divided evenly among the four centers. The

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suggestion is that the additional money that went to small districts last year ended up being \$1,262,000.

As the Board heard this morning from the regional service centers, there is a critical need for regional service centers who provide a great service to rural school districts. There is not a formal bill to deal with this, but as a Board you may want to consider reacting to this proposal but also reacting to the total proposition that is still out there of a 5% reduction to the State Office of Education budget in FY 11.

Chair Roberts commented that she has seen what the regional service centers provide and they are irreplaceable in the rural districts.

Discussion ensued relative to the funds available to regional service centers. It was pointed out that without the money from the State Office of Education they would have to close their doors.

Vice Chair Dixie Allen recommended the Board support the regional service centers to keep them alive and well and make them an ongoing program.

Motion was made by Member Denis R. Morrill and seconded by Vice Chair Dixie L. Allen that any cuts to the regional service centers not be any greater than cuts to other programs.

Member Carol Murphy commented she did not disagree, however, she questioned if the model and funding is the best way to deliver those services. Are there other ways to accomplish that equity model? She would also like to see greater discussion of what our priorities will be relative to cost cutting.

Members Morrill and Allen withdrew their motion.

School Trust Land Proposals

Representatives Sumsion and Herrod reported that they are concerned about the funding for public education and as you look at the changing demographics 160,000 new students over the next ten years and other demographics that cause school costs to go up, they are trying to find a resource. There were 77 leases pulled in the State of Utah in effect taking \$139 million from the school trust lands and \$750 million from the general fund. The more this happens, the harder it gets to fund education. They indicated that Utah is in a unique situation because we have so much public land. They presented information relative to their proposed legislation to free up some of the public land, feeling that the federal government has broken the enabling act. The first bill forces the issue as to who the sovereign is, the State of Utah or the

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federal government. This will put eminent domain in our state statute. They have also become concerned that it is becoming more and more difficult to develop land because more and more land has been declared wilderness area. The second bill will authorize the Attorney General of Utah to go eminent domain on two properties, one near Cedar City and one near Randolph, Utah. The third piece of property deals with the issue of 5% the federal government owes us off of the federal land they have refused to sell or trade out with us in a very timely manner. The oil leases that were between two sections of land we had already agreed (77 leases) in these areas is estimated to be approximately \$145 million to the school trust lands and approximately \$720 million off the royalties to the general fund or the State of Utah. The third bill, the school trust lands generates about \$90 million through developing some of our school trust lands, oil leases on the school trust lands, etc. The money comes in, the legislature appropriates approximately \$20 million for the administrative budget of SITLA and the rest is put into our constitutionally protected school trust fund. From that fund we earn interest and that is distributed out through our school community councils. This bill will take an additional \$3 million added to the \$20 million and in statute with specific language that will set it aside for the Attorney General to go into state court and eminent domain these three sections of property. They feel they are on very good grounds to win, to say we have right-of-way access to the school trust lands.

Member Denis Morrill indicated that as an attorney he did not feel they could eminent domain the federal government. He would want to see an opinion from the Attorney General indicating that there is some chance of success in doing so.

The bills are not out yet, therefore, there was no action taken.

SB 43, Retirement Eligibility Modifications and SB 63, New Public Employees' Tier I Contributory Retirement Act - Senator Lljenquist

Senator Lljenquist presented his retirement reform proposals. (For complete details see General Exhibit No. 11110.)

Following questions for clarification, motion was made by Vice Chair Dixie L. Allen and seconded by Member C. Mark Openshaw to support in concept the proposed retirement bills, SB 43 and SB 63, to help correct the problems we have with the retirement system. Motion carried with Members Allen, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Murphy, Openshaw, and Thomas voting in favor; Member Brown opposed.

Regional Service Centers

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Motion was made by Vice Chair Dixie L. Allen and seconded by Member Craig E. Coleman to protect our regional service centers for the upcoming year and to not eliminate them with a huge decrease in funding. Motion carried unanimously.

Budget

Superintendent Shumway described a conversation that Board Leadership and Board Member Thomas and he had. We are finding ourselves in a situation that is unique in some ways for us in that we are at the center of the budget discussion, and there is a very good chance that the recommendation we make will be the recommendation (structurally at least) that is adopted by the Public Education Appropriations Subcommittee. The challenge is that the system requires that public education appropriations submit a base budget number that is \$102 million short of the funding. This is something we will never support. The structure of that budget is right, but the numbers can be all wrong. As we have all worked with the co-chairs we have pushed hard to maintain the integrity of what we believe the board has adopted in its initial budget proposal.

Dr. Shumway reported that next Monday we will be in executive appropriations and we are going to have, at some point, the chairs ask what our position is and what we would recommend. It is such a fluid situation that it won't be anything precisely that the whole Board has seen. The challenge is that we have worked our way to the table and if we get there in such a situation and are unable to say, "we can live with this," it would not be prudent politically. We would not act in a way that should firmly commit the Board to a position on something, but we do believe we should be able to say that we believe that this budget conforms to the principles that the Board has been talking about. We still need \$293 million, the structure of the budget may conform.

Member Mark Openshaw commented that he liked the flexibility of giving the Superintendent support in this regard to move forward.

Superintendent Shumway noted details on significant pieces. The board and voted leeway appropriation is significantly short of funding the guarantee. Not funding the guarantee hurts the poorest districts. The committee chairs have taken the position that this should be funded. There is no new money so there really isn't any place to fund it other than to take it from another line. We have agreed that this is probably the right thing to do, even though it is hard, and it should be something the Board thinks about before we commit to it. This line item is approximately \$19 million. Dr. Shumway continued that as they have been putting together the

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budget we have, at least structurally, thought it would meet the Boards standards and specifications. As such, he has directed Associate Superintendent Hauber to put that structural change in that would fund board and voted leeway. The cut would not be greater than other lines, but would be proportionate. He requested that the Board take a position relative to this proposed change.

Motion was made by Member David L. Thomas and seconded by Vice Chair Dixie L. Allen that the Board take the position described by Superintendent Shumway. Motion carried unanimously.

Superintendent Shumway commented that the budget that will be before the committee on Monday will be based minus \$102 million. Our statement before the committee will be, "we hate these numbers and we are against them, but structurally, we think the organization and mechanism is the right structure."

Superintendent Shumway reported that there are pieces of the budget that when the line began we were not happy with where it came from. As we look at them in operation, it is very difficult to say which program we would want to zero out or is not helping anyone. As we have reviewed the budget line by line with the committee chairs and through hearings, we don't see programs that fit what we are being told by certain people are old and wasteful and don't help anyone, so let's cut those. We will be recommending that we keep all of the programs functioning with the hopes that the rains will return. There are programs in the budget that have individual legislative patrons and sponsors that at the time they were done they really made us upset. But, now they are in operation as we look at them and hear the reports and visit the sites we see them as productive. Our recommendation is that we make this as a proportionate cut across the board.

Dr. Shumway noted that the proposed language for the bill that below a certain threshold districts can combine lines. You can't just use them for what you want, you need to pick one line and do that line, the current language has the threshold at \$10,000. This would be a general principle of even cutting.

Motion was made by Member David L. Thomas and seconded by Vice Chair Dixie L. Allen to support the general principle of even cutting.

Member Kim Burningham commented that he had voted against the original budget, but he will vote in favor of this because it deals only with structural issues.

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Motion carried unanimously.

Superintendent Shumway reported that the third area of concern comes with transportation. Our efforts will be that transportation not take any greater cut than any other. There is some sentiment among some that there may be ways to redo transportation. Our discussions have been that if you cut transportation any more you need to stand up and also cut the service requirement. It is wrong to cut the service requirement (mileage) and transportation any more. If it comes to cutting transportation, if we loose the fight, we would be on the other side of saying you can't cut this budget line without going back into the statute and changing the mileage numbers.

Motion was made by Member Kim R. Burningham and seconded by Member David L. Thomas to support the position described by Superintendent Shumway. Motion carried unanimously.

SB 49S2 - Vending Machines in Public Schools

Deputy Superintendent Menlove reported that this legislation changed dramatically this morning. The substitute bill that passed out of the committee earlier today states that the Board shall adopt rules establishing the standards for beverage and non-beverage contents in vending machines accessible to students at elementary and secondary schools. It then lists things that the rule may contain and further that local school boards can then establish their own policy and may follow the recommendations of the State Board or may not follow the recommendations of the State Board.

Chair Debra Roberts reported that 15 months ago we spent a considerable amount of time doing exactly what the bill tells us to do. We have already done this.

Motion was made by Member David L. Thomas and seconded by Member Carol A. Murphy to support SB 49S2. Motion carried unanimously.

SB 55 - Authorization of Charter Schools by Higher Education Institutions

Deputy Superintendent Menlove reported that this bill empowers institutions of higher education (boards of trustees of higher education) to act as the chartering entity and charter schools without going through the State Charter School Board. He noted that concern that this bill takes the State Charter School Board out of the process.

Motion was made by Member Greg W. Haws and seconded by Vice Chair Dixie L. Allen to oppose SB 55 in its current form.

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Member Dave Thomas spoke in favor of a university chartering, and supports the position the sponsor is taking.

Following further discussion relative to how an institution of higher education might charter a school, a substitute motion was made by Member David L. Thomas and seconded by Member David L. Crandall that the Board take no position, and direct staff to work with the sponsor and tell the sponsor that the state board respecting his vision has decided not to take a position right now, but would like to work with him to see that his vision is fulfilled.

Substitution motion carried unanimously.

Executive Session

Motion was made by Member Denis R. Morrill and seconded by Member David L. Thomas to moved into an executive session for the purpose of discussing personnel issues and pending or potential litigation. The Board was polled and by unanimous consent of those present the Board moved into an executive session at 2:15 p.m.

Motion was made by Member David L. Crandall and seconded by Member C. Mark Openshaw to reconvene into open meeting. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent. The Board reconvened at 3:00 p.m.

Executive Session Actions

Utah Professional Practices Advisory Commission Recommendations

Motion was made by Member Denis R. Morrill and seconded by Member Dixie L. Allen to accept a stipulated agreement, including conditions of the agreement in Case No. 08-859 whereby a former teacher in Jordan School District, voluntarily surrenders his educator license in lieu of a hearing for the purposes of suspension of his license from the date of formal action by the State Board of Education. The earliest date that the educator could seek reinstatement of his license would be two years from the date of suspension. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent.

Motion was made by Member Denis R. Morrill and seconded by Member Laurel O. Brown to accept a stipulated agreement in Case No. 09-899 whereby a former teacher in the Davis School District voluntarily surrenders her educator license in lieu of a hearing for purposes of revocation of her license for at least 25 years from the date of formal action by the State Board

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of Education. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent.

Motion was made by Member Denis R. Morrill and seconded by Member Dixie L. Allen to revoke, based upon default in Case No. 09-924, against a former educator in Washington School District. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent.

Motion was made by Member Denis R. Morrill and seconded by Member Dixie L. Allen to revoke, based upon default in Case No. 09-926, against a former educator in Weber School District. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent.

(For complete details see General Exhibit No. 11111.)

Division of Services to the Deaf and Hard of Hearing

Motion was made by Member Janet A. Cannon and seconded by Member C. Mark Openshaw to appoint Kimberly Gullickson and Joy Roberts to the Division of Services to the Deaf and Hard of Hearing Advisory Council, terms to expire 6/30/2012. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent.

Board Standing Committee Reports

Finance & Operations Committee

Member Greg W. Haws, Chair, Finance & Operations Committee presented the following recommendations from the Committee:

Charter School Revolving Loan Committee Report

The Charter School Revolving Loan Committee was created by statute in the 2007 Legislative session. In the course of operation, a wide variety of funding requests have been reviewed, each using different criteria. It has been agreed upon by the Finance and Operations Committee and the Revolving Loan Committee that criteria be established to achieve consistency in funding decisions.

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Mike Anderson, Charter School Revolving Loan Committee chair presented the actions of the committee to date and proposed policy solutions related to charter school revolving loans. It was noted that the State Charter School board voiced concern over the lack of charter school input in the proposed policy changes and requested that the Revolving Loan Committee seek additional input on policy decisions. Additionally, the State Charter School Board requested that the proposed rule changes from the State Board of Education Finance and Operations Committee be remanded to the State Charter School Board's Rule Review Committee for comment. (For complete details see General Exhibit No. 11112.)

No action. The Committee directed staff to develop a rule.

Grand County School District Rescinds
Request for a Four-Day School Week

The Utah State Board of Education received a budget proposal from Grand County School District for FY 2011. The proposal contained three requests, two of which were authorized by the Board at its January 7, 2010 meeting. The third proposal was to reduce the number of school days in school years 2010-2011. The Board directed Grand County School District to prepare a detailed analysis for the Board's consideration of the proposal. Subsequent to the February Utah State Board of Education meeting, the district has received an unexpected contribution to mitigate budget cuts. There, the need to follow through on the request is unnecessary. (For complete details see General Exhibit No. 11113.)

The Committee received the report regarding the rescinding of the Grand County School District request to move to a four-day school week. No action was required.

Student Achievement and School Success Committee

Member Laurel O. Brown, Chair of the Student Achievement and School Success Committee presented the following recommendations from the Committee:

Utah Dual Immersion Program

On July 1, 2008, SB41SO1 became law. This law provides funding for the Dual Immersion program for one-way and two-way immersion programs. The Utah Dual Immersion program requires 50/50 instruction (English and a second language - Chinese, French, or Spanish), begins in Kindergarten, first grade, or both, and adds an additional grade each year until the sixth grade. The law does not require a report; however, USOE staff believe the Board should receive an update on this innovative program. The Curriculum Staff presented a report on

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the expansion and progress of the Utah Dual Immersion Program. (For complete details see General Exhibit No. 11114.)

No action was required, the committee received the report.

Utah's Race to the Top Application

The Board in its January meeting approved the Race to the Top application and directed the USOE administration to finish the application process. The administration completed the process and delivered the completed application on January 19, 2010. The Department of Education will announce the recipients in April.

The Committee heard a report on the final Race to the Top application process. The Committee received the report. No action was required.

Armed Services Vocational Aptitude Battery (ASVAB) - Career Exploration

The ASVAB Career Exploration Program is a comprehensive career exploration and planning program that includes multiple aptitude test battery, an interest inventory, and various career planning tools designed to help students explore the world of work. It is intended to fuse with students in the 10th, 11th, and 12th grades, as well as students in post-secondary schools. It was developed by the Department of Defense to help high school and post-secondary students across the nation learn more about career exploration and planning. Results of the aptitude test and the interest inventory enable students to evaluate their skills, estimate performance in academic and vocational endeavors, and identify potentially satisfying careers. These results are integrated with work values to help students identify and prioritize possible career choices. Also the March to Success Program.

The Committee received a presentation from Mr. Albert Silverstein from the Army on ASVAB and the March to Success Program. They discussed the ASVAB program to determine if it should be further explored by USOE staff as an effective means of assessment for students in Utah schools.

The Committee felt there needed to be more discussion relative to where we are with our previous report on the Blue Ribbon Commission and their work. This may be an avenue we may want to pursue. This program can particularly help students who do not know where they are going.

The Committee also recommended that this be taken to the Utah School Superintendents Association.

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Law & Policy Committee

Member Janet A. Cannon, Chair of the Law & Policy Committee presented the following recommendations from the Committee:

Charter Schools, R277-470

HB 197, Reauthorization of Administrative Rules, 2009 Legislative General Session, removed language from State Board Rule R277-470-12. The new legislation specifically did not reauthorize R277-470-12(B) and (C) Education, Administration, Charter School Parental Involvement which required charter schools to have a prescribed number of parent members with one elected. In December, a legislator made it clear that their intent was to remove all language mandating parental involvement on governing boards, which would include language in R277-470-15(B)(2). In addition to this, several minor amendments are also included. (For complete details see General Exhibit No. 11115.)

The Committee reviewed the amendments to R277-470 and approved R277-470 on first reading and moves that the Board approve the amendments to R277-470, Charter Schools on second reading. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Openshaw voting in favor; Member Thomas opposed and Member Murphy absent.

Designation for Summit Academy High School

In November, 2008 Summit Academy applied for an expansion of its existing school to add grades 10 - 12 and additional students at the high school. The State Charter School Board recommended such to the State Board of Education. At the State Board's December, 2008 meeting much discussion surrounded whether or not the school should be an expansion or a satellite. By Board Rule R277-470 Charter Schools, a satellite school is defined as "a charter school affiliated with an operating charter school having a common governing board and a similar program of instruction, but located at a different site or in a different geographical area." A motion was made to "approve a satellite campus for Summit Academy, contingent upon their willingness to abide by all of the requirements for a satellite school."

Because Summit Academy High School does not offer "a similar program of instruction" (i.e., secondary school), it does not fit the definition of a satellite. Instead, it would qualify as an expansion or a new school. A new school designation fits more closely as this requires a separate governing board, separate finances, separate reports, etc. Summit Academy is willing to abide by all of the requirements for a new school and requests a 'new school'

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designation appear in the February 2010 Board minutes so it can move forward with its scheduled opening in fall 2010. (For complete details see General Exhibit No. 11116.)

Summit Academy's new school commitment was reviewed with the Committee. Motion from the Committee and the Board approve Summit Academy High School as a new school.

Member David L. Crandall noted he is on the Governing Board of Summit Academy and will not be voting on the motion.

Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent; Member Crandall abstained.

State Charter School Board Recommendations

The State Charter School Board reviewed one request for an amendment to a charter school in its October Board meeting and three requests for amendments to charter schools in its December Board meeting.

The following amendment requests were reviewed with the Law and Policy Committee.

DaVinci Academy of Science and the Arts - Addition of grades K-6 with an increase of 300 students as follows:

2010-2011 - add grade six, no additional students

2011-2012 - add grades K-2, 150 additional students

2012-2013 - add grades 3-5, 150 additional students

Thomas Edison Charter School South - Addition of grade nine.

Motion from the Committee to approve the recommendations. Motion carried unanimously. Member Dave Thomas noted his daughter attends DaVinci and he voted in favor.

Open High School - Amend requirements to place two elected parents as board members; expand collaborative opportunities with various institutions of higher education, miscellaneous amendments centered around individualized instruction, individual employee agreements and employment of relatives.

Motion from the Committee to approve the request. Motion carried with Members Allen, Brown, Burningham, Cannon, Castle, Coleman, Crandall, Haws, Jensen, Morrill, Openshaw, and Thomas voting in favor; Member Murphy absent.

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Excelsior Academy - Addition of grades 9-12 with an increase of 347 students for the 2011-1012 school year.

Concern was expressed that this is a new school this year and don't have a track record financially or academically for them. They are requesting an additional number of students at this time because there is a cap on the number of charter school students allowed and they came early to get into this number. The Committee felt more comfortable to have more of a track record. Excelsior agreed to come back in August and give the committee the information requested. The Committee gave conditional approval subject to them providing the information in August.

(For complete details see General Exhibit No. 11117.)

Charter Schools State Board Agenda Items Process

In April 2008 the State Board of Education approved a process by which State Charter School Board recommendations would appear on its agenda. The process consists of (1) items which can be finalized by Superintendent (or designee) approval, (2) items which appear on the consent calendar, and (3) items which appear at the committee level.

The Committee reviewed the State Charter School Board recommendation and agenda process. (For complete details see General Exhibit No. 11118.)

Motion from the Committee that the Board approve the following process taking the top two items from the Consent Calendar [Add grades to program, regardless of enrollment effects and Increase number of students beyond enrollment cap in charter] and place them under Full Board Approval. Further under Consent Calendar: (1) that the Board meeting schedule referred to there is the State Charter School Board meeting schedule. (2) Change in number of Board Members move into Administrative Approval. Motion carried unanimously.

Rich School District Four-Day School Week Report

The Richard School District was originally authorized by the Board to implement a four-day school week during the 2007-08 and 2008-09 school year, with a waiver of the relevant parts of R277-419 *Pupil Accounting*. The District was subsequently authorized by the Board in September 2008 to continue the four-day school week through the 2011-2012 school year. As part of the authorization, the District is required to make a report of the effects of the school calendar on student achievement, district budget, and other related issues.

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The Committee reviewed the latest (August 2009) report from Rich School District.
(For complete details see General Exhibit No. 11119.)

No action was required.

Executive Officer Report

Superintendent Larry K. Shumway presented the following items of information:

- Recognized Brenda Hales with a bouquet of flowers for her outstanding work in putting together the Race to the Top application. She indicated it was a joint effort.
- Public Return on Investment by State – U.S. Chamber of Commerce and *Quality Counts* reports. The U.S. Chamber of Commerce report gives Utah its highest ranking on Return on Investment. Also other charts from Quality Counts and Education Week.
- Data Quality Campaign - The DQC has just released the first national overview of *State Efforts to Ensure the Effective Use of Education Data*. The report highlights Utah as leading the nation in the implementation of our longitudinal data system with all ten elements.
- Part of our Race to the Top Application was participation in a Common Assessment Consortium - Associate Superintendent Judy Park reported that states are scrambling to see who they want to align themselves with or partner with. Because the federal government required we declare what consortium you were in we were under an impossible deadline. To make it work we all agreed we would do a Non-binding MOU's into a Consortium. Utah along with many other states signed on to multiple consortiums. We signed on with the following consortiums: SMARTER, which is focusing on adaptive testing, MOSAIC, which is based on formative and interim assessment, ACHIEVE, and Balanced Assessment. We turned in all four MOU's for our Race to the Top Application. Since that time, as of yesterday afternoon the decision was made to combine SMARTER and MOSAIC into one comprehensive assessment system which will be called SMARTER. This is a comprehensive assessment system that focus' on adaptive testing that also includes formative, interim and summative assessment. We are still signed on with Balanced Assessment, and ACHIEVE. It appears that it is coming down to two consortiums only, two very different ideas of assessment.

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Florida leading the charge for the one, SMARTER being the one where Utah is in the leadership. We are supposed to receive the application in March which will be due in June.

- USOE Initiatives grown out of Board direction and sharper focus by Promises to Keep and Race to the Top:
- Under Promises to Keep - Ensuring Quality Instruction for all Utah Children -
 - It includes a program to develop tools and educator evaluation that include measurement of high quality instruction and student achievement. The Assessment Consortium are indicators of the work our staff is doing to move this forward regardless of funding. We will continue to work towards this with the idea that if there are needed policy changes, board rule changes and legislation, those will be ready for the Board's consideration before the end of the summer.
 - Our Performance Pay Pilots that are ongoing, Deputy Superintendent Menlove is directing the work there and we expect to have this summer the Pilot Programs from these five schools presented to the Board they get ready for implementation next year.
 - In the State of Education address he announced a Task Force to strengthen rules and make recommendations to him on educator misconduct. He asked former Superintendent Harrington to lead that task force. This report is nearing completion, the group has completed its work and he will have a report as well as policy recommendations in the March Board meeting.
- It has been a priority of the Board to look at High School Graduation requirements and rigor and relevance for high school graduation. During this legislative session we have heard Senator Buttars proposal regarding elimination of the 12th grade. As bad as this may be, it is a manifestation of a concern that is out there. Therefore he is moving forward with a Superintendents Task Force, the same model as the Educator Ethics and Conduct Task Force, to study this more closely and to come back with concrete policy recommendations the Board can consider for action before the end of this summer.
- We continue to move forward in our participation of the Common Core Standards movement. Many Board members were involved in a NASBE Conference earlier

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this week in Las Vegas. The sense from that meeting was how states are struggling with this, and the challenges we all face. We will face all of the issues in different degrees depending on the issue and how we feel about it. It was interesting to hear from our colleagues in Colorado who see a movement toward common core state standards as a diminishment of their standards.

- One of the challenging things continues to be talked about the possibility of creative secondary school calendars. He is creating a Superintendents Task Force to look at this carefully and take the lead on this. As he has thought about these initiatives, it is in this light that we have lots of people who want to lead. In the Governor's State of the State Address he talked about his Commission on Educational Excellence. We are appreciative of his interest in public education and his desire to have excellence in our state. The State Board and through the State Board the State Superintendent, we all need to be in the lead here in the same way. He indicated that He and Chair Roberts have been invited to the Governor's Commission on Excellence and when they attend they will be able to say these are some terrific ideas and we are already well on our way in these areas.
- Dr. Shumway noted that there is a lot of talk about online assessment. We are moving to adaptive assessment but the online assessment we have well over 70% of all CRTs being taken on line.
- Dr. Shumway reported that today he issued an executive directive to all employees under the direction of the State Superintendent and State Board on ethics. The Governor's proclamation on ethics does not apply to the employees of the State Office of under the State Board of Education. It seemed wise to take this opportunity to renew our focus on ethical conduct. Carol Lear reviewed the Executive Directive on Ethics.
- Tim Donaldson, Financial Manager, School Children's Trust, provided an update of the lawsuit State of Utah vs Mathis. He noted that a ruling was issued by the Utah Supreme Court six weeks ago. The case involved a 40 acre tract of coal property in Carbon County. It appeared that the mineral rights should have stayed with the Trust. SITLA in 2004 attempted to assert ownership of these mineral rights and from that point until now there was \$5 million in coal royalties sitting in an escrow account that were at stake in this case. The court decided the statute

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of limitation bared SITLA's ability to go back and get into those facts. This was an overruling of two previous cases. There are other situations similar to this one and it has been estimated that in 1990 dollars there was \$300 million involved that had been lost to the school trust. He reviewed the constitutional provisions. This information has been presented to the Trust Lands Advisory Committee and it is there recommendation that the Board should look at trying to amend the Utah Constitution to put the null and void protective language in. This would prohibit a piece of land being sold under fair market value. As the School Children's Trust Section, they are asking that after the legislative session the law and policy committee look at a possible constitutional amendment in the future, and explore the possibility of we as beneficiaries may want to try to recover any of these losses on the coal properties; and in the future to keep the trust system running right we need to make sure these transactions are done right the first time.

(For complete details see General Exhibit No. 11120)

Board Chair Report

Chair Debra G. Roberts presented the following items of information:

- Audit Committee Report - Chair Roberts share a partial list of things Ms. Grange is working on.
- Board Member Craig Coleman reported on his attendance at the Rural Schools Conference held in St. George last week. He noted that much of what was discussed centered on funding, concerns from regional service centers long term funding and existence. He noted that the regional service centers existence is not provided for in state statute but only by Board rule. They also heard a report from UEN relative to funding concerns as well. Their services provided to the Regional Service Centers is very important in providing technical services and computing support to rural districts. In terms of funding they talked about flexibility to tap into capital funds to meet M&O costs for the districts. They also discussed the availability of concurrent enrollment courses. In many cases in rural schools they are not able to hire teachers or offer courses to students because their schools are small so they rely upon concurrent enrollment courses to provide advanced material for their students. In the current economic climate many of the institutions of higher education that are providing these courses are pulling back

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and making those courses less and less available to the rural schools. - in the case of rural schools don't have courses available to schools rely on them to provide advanced material to their students. Many institutions of higher education pulling back and making them less available to rural schools. They were hoping that we could do something through the K-16 Alliance in restoring that availability. The last issue was with regard Digital Sams and Digital Bridge with concerns they have data management in assessment.

Chair Roberts requested that the Board receive a report on UEN, who they are and what they do as well as a report on understanding what the Regional Service Centers do.

- Vice Chair Dixie Roberts reported on their trip to Las Vegas on Common Core Standards. There were great presentations with Superintendent Shumway being the keynote speaker. The Common Standards come from the Council of Chief State School Officers and NGA. The idea was to get some college and career readiness standards that affect both content and application, internationally benchmarked and evidence based. Governor Bob Wise also spoke to the group and he stated "the best economic package is a diploma that certifies college and career readiness." In approximately a month to a month and a half we should be seeing the common standards in standards mode. It is important for us to let everyone know that these are state standards not federal standards. We should highlight the idea that these are consistent standards, they are relevant to the real work, college and work. They want a commitment from our schools, educators and parents to provide the resources to meet these standards. The standards are to establish what students need to learn, and schools and teachers need to decide how best to help the students learn the standards. There were most of the western states in attendance and she was abashed to find out how far along Utah is in comparison to our neighboring states. We are 15-20 years ahead of some of them.
- Member Dave Thomas reported in NASBE GAC meetings there was concern expressed because they have already drafted them and there was a thought that these regional meetings were to allow state board input, yet they are not taking input. In fact, the standards will all come out before the last meeting for the mid-west in Chicago is even held. He further noted that if you are going to get Race to

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the Top money you have to adopt the state common standards as is without any changes. Therefore, the feds have made them federal standards.

Superintendent Shumway commented that the difference between standards and curriculum and assessment is not lost chlorous. As he presented at the western conference it struck him that the way the standards are written they are not so prescriptive that adopting the standards does not lead us to be able to still work within our state core to develop the curriculum and the sub-standards objectives that fit our states needs. He felt we could still adopt the standards in a way that will be meeting what we want to do in our state as well as an opportunity to move ourselves forward.

- Chair Roberts reported that she and Superintendent Shumway presented breakout sessions at USBA Convention on Race to the Top.
- Chair Roberts reported that she had met with the vice president of academics at Dixie State University relative to students needing remediation in math. She will provide Chair Roberts with numbers of where they are getting their information.
- Chair Roberts reported that she met with Speaker Clark and reviewed a lot of issues. There is also a meeting scheduled with the Speaker and President of the Senate. She expressed appreciation to Member Thomas who has been instrumental in working out these relationships.
- Chair Roberts encouraged Board Members to review the legislative meetings she has been furnishing weekly. She will add additional meetings if needed.
- Chair Roberts reported that she and Vice Chair Allen and Member Kim Burningham met with USBA Leadership yesterday. This has provided to be a positive work together on legislation.
- We have received information from NASBE requesting nominations for Policy Leader of the Year, Friend of Education and Distinguished Service Awards. If anyone has someone they would like to suggest we submit for one of these areas to let Twila know. We will review this again next month.
- The next Board Leadership meeting is February 18th.

General Consent Calendar

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Motion was made by Member David L. Thomas and seconded by Member Dixie L. Allen to approve the General Consent Calendar as presented. Motion carried Janet Cannon absent.

1. Minutes of Previous Meetings

Minutes of the Meeting of the State Board of Education held January 7, 2010.

2. Contracts

The following contracts were approved by the Board:

(1) WestEd. \$421,388. 11/30/09-11/2009/2010. Fed.

To study the alignment of select Utah high stakes tests with Utah's Core and Extended Core Standards.

(2) Braille Plus, Inc. \$459,472.93. 12/01/2009 to 11/30/2014. - Fed.

To provide Braille versions of statewide assessments, including Utah Basic Skills Competency Test (UBSCT), Direct Writing Assessment (DWA), & Criterion Referenced Tests (CRT), for public schools in the State of Utah.

(For complete details see General Exhibit No. 11121.)

3. Educator Licensing Requests for Temporary Authorizations

Requests for Temporary Authorizations as submitted by the school districts were approved as submitted. (For complete details see General Exhibit No. 11122.)

4. Variance Request - Salt Lake City School District

On Tuesday, January 5, 2010, Franklin Elementary School was closed, ordered by the Salt Lake City Police and the Utah Highway Patrol. Law enforcement officers were searching for a suspect and believed he was hiding in a home near the school. As a result, the school was closed for the entire day. Based on these circumstances the Salt Lake City School District, in particular, Franklin Elementary School, is requesting that this day not be made up. The school schedule is such that the instructional time is being met for the 990 hours. (For complete details see General Exhibit No. 11123.)

The State Board of Education granted a variance to Franklin Elementary School in the Salt Lake City School District for January 5, 2010 based on the above noted unique circumstances.

5. Minimum School Days Waiver, R277-419

The State Board of Education in its April 3, 2009 meeting provided additional flexibility to school district boards of education and charter school governing

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boards in the current difficult financial circumstances. The Board's action allows the reduction of up to five instructional days, provided the following requirements are met: (1) Prior to the cutting of any instructional days, a district or charter school must first cut three calendared professional development days (days on which licensed staff would have worked without students present). Only after the reduction of the professional development days may the district or charter school reduce instructional days. (2) The decision to reduce instructional days must be made in an open meeting of the board. Parents must be notified of the pending action and provided opportunity to be heard. (3) Once a school district or charter school has taken action to reduce instructional days, notification of the action must be provided to the State Board of Education. This notification shall be made by letter to the State Superintendent. This action is specifically limited to the 2009-2010 school year. The following charter school has taken action to reduce school days in the 2009-2010 school year: Gateway Preparatory Academy. (For complete details see General Exhibit No. 11124.)

6. Corrective Action and Withdrawal or Reduction of Program Funds, R277-114

Directors, coordinators, and program specialists spend significant time monitoring the programs for which they have responsibility. This monitoring includes verification of compliance with program objectives and outcomes as well as ensuring that funds are expended for allowable program purposes. In some cases, program monitoring results in findings of noncompliance with program objectives and/or that funds are not being used in accordance with program requirements. Currently there is no rule or policy that prescribes a protocol by which program monitors can place a program on corrective action and, if necessary, reduce or withdraw state funding. Program monitors should have the ability to carry out their charge to monitor programs and direct funding to programs that will comply with requirements. R277-114, Corrective Action and Withdrawal or Reduction of Funds provides guidance for program monitors and notice to program recipients with respect to monitoring activities, corrective action plans, and ultimate funding decisions. The State board Audit Committee reviewed R277-114, at its December 4, 2009 meeting and recommended that the rule be forwarded for further committee and Board consideration.

The new rule, R277-114 was approved by the Board on second reading at the January 7, 2010 meeting. There have been no substantive changes to the rule since that time. (For complete details see General Exhibit No. 11125). The Board approved R277-114, Corrective Action and Withdrawal or Reduction of Funds on third and final reading.

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7. Pupil Accounting, R277-419

The United States Department of Education has made a new rule that requires No Child Left Behind AYP Reports for schools/LEAs in program improvement to be released to the public 14 days prior to the beginning of the new school year. These changes in reporting requirements and processes are requiring adjustments to deadlines for data submission in R277-419-3, Pupil Accounting, Minimum School Days, LEA Records and Audits.

The amendments to R277-419-3, Pupil Accounting, Minimum School Days, LEA Records and Audits were approved by the Board at the January 7, 2010 Board meeting. There have been no substantive changes to the rule since that time. (For complete details see General Exhibit No. 11126.) The Board approved R277-419, Pupil Accounting on third and final reading.

8. Data Standards, R277-484

The United States Department of Education has made a new rule that requires No Child Left Behind AYP Reports for schools/LEAs in program improvement to be released to the public 14 days prior to the beginning of the new school year. These changes in reporting requirements and processes are requiring adjustments to deadlines for data submission in R277-484, Data Standards.

The amendments to R277-484, Data Standards were approved by the Board at the January 7, 2010 Board meeting. There have been no substantive changes to the rule since that time. (For complete details see General Exhibit No. 11127.) The Board approved R277-484, Data Standards on third and final reading.

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. 11128.)

10. Ratifications

Brad N. Talbert was ratified as an Educational Specialist, Assessment Science, in the Data , Assessment, and Accountability Division.

11. Advisory Committee Notice of Vacancy

Notice was given that three vacancies occur on the Instructional Materials Commission. The vacancies include representation from the Deans of Education (1); Elementary Principal (1); and Secondary Principal (1).

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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. 11129.)

13. Claims Report

The Claims Report in the amount of \$263,373,080.08 for December 31, 2009 was approved by the Board. (For complete details see General Exhibit No. 11130.)

Motion was made by Member C. Mark Openshaw and seconded by Member David L. Crandall to adjourn. Motion carried.

Meeting adjourned at 4:40 p.m.