

## MINUTES

February 15, 2008

Minutes of the legislative meeting of the State Board of Education held February 15, 2008, at the State Capitol Complex, Salt Lake City, Utah. Meeting commenced at 10:10 a.m. Debra G. Roberts, Chairman of the Law and Policy Committee presided.

Members present were:

Chairman Richard W. Sadler  
Vice Chairman Mark Cluff  
Member Kim R. Burningham  
Member Bill Colbert  
Member Thomas Gregory  
Member Greg W. Haws  
Member Michael G. Jensen  
Member Randall Mackey  
Member Denis R. Morrill  
Member Richard E. Moss  
Member Debra G. Roberts

Members Dixie Allen, Laurel Brown, Janet Cannon, Rosanita Cespedes, Charlene Lui, Josh Reid, and Teresa Theurer were excused..

Also present were:

Executive Officer Patti Harrington  
Deputy Superintendent Larry Shumway  
Associate Superintendent Brenda Hales  
Associate Superintendent Todd Hauber  
Associate Superintendent Judy Park  
Board Secretary Twila B. Affleck

Members of the Press:

Jennifer Toomer-Cook, Deseret Morning News  
Rod Decker, KUTV News  
Carol Lear, Director, Law and Legislation, Utah State Office of Education

Board Secretary Twila B. Affleck recorded the minutes.

Member Debra Roberts, Chairman of the Law and Policy Committee called the meeting to order.

Member Roberts, Chairman Sadler and Vice Chairman Cluff all commented on ways the Board might work better with the legislature in supporting the concept of the legislation if we are already doing it. Also, that we might request of legislators as to how we might do it better.

### Legislation Update

The Board reviewed and took action on the following legislation:

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**HB 295 Public School Electronic Device Policies - Possible Reconsideration  
(S. Allen)**

This bill requires a local school board or governing board of a charter school to adopt a policy that governs the possession and use of electronic devices at a school; specifies certain required and permissible elements of the policy; and [ allows ] *requires* the State Board of Education to make rules that provide additional direction for school district and charter school policies; and a model policy for local boards of education and charter schools. There are no monies appropriated in this bill. This bill takes effect on July 1, 2008.

Motion was made by Chairman Richard Sadler and seconded by Member Richard Moss to support.

Amendment to motion was made by Member Thomas Gregory to include direction to staff to begin drafting the rule on this issue whether or not the legislation passes.

Chairman Richard Sadler suggested that staff begin this work at the end of the session rather than starting immediately.

Amendment was accepted by original motion makers with the comments by Chairman Sadler. Motion carried unanimously.

**HJR 12 Joint Resolution Amending the Utah Constitution - Stock  
Subscriptions (D. Clark)**

This resolution proposes to amend the Utah Constitution to authorize the state to subscribe to stock using funds in the permanent State School Fund and funds derived from federal land grants designated in the Enabling Act, except as limited by statute. This resolution directs the lieutenant governor to submit this proposal to voters and provides a contingent effective date of January 1, 2009 for this proposal.

Motion was made by Vice Chairman Mark Cluff and seconded by Member Kim R. Burningham to support. Motion carried unanimously.

**HB 113 S1 School Financial Disclosure – (K. Sumsion)**

This bill requires a school district or charter school to make a report at the end of each fiscal year summarizing: by vendor, expenditures made; and by employee, gross wages paid; and requires the reports to be published on the Internet. There are no monies appropriated in this bill.

Motion was made by Member Kim R. Burningham and seconded by Member Randall A. Mackey a position of unnecessary.

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Substitute motion was made by Member Thomas Gregory and seconded by Member Bill Colbert to support the concept recognizing the additional costs associated with the legislation. Motion carried unanimously.

**HB 166 S1 Minutes of Open and Public Meetings - (M. Brown)**

This bill requires written minutes of open meetings to be available to the public within 14 days after the date of the meeting or at the next scheduled meeting, whichever is later; allows minutes of an open meeting to be classified as a protected draft; provides that minutes of an open meeting are public records when they are distributed for approval by the public body; and makes technical changes.

Motion was made by Member Bill Colbert and seconded by Vice Chairman Mark Cluff to support. Motion carried unanimously.

**HB 194 Class Size Reduction in Kindergarten Through Grade Three - (K. Morgan)**

This bill establishes an additional appropriation for class size reduction; provides conditions for schools to participate in the K-3 Class Size Reduction Incentive Program; requires certain reports; requires certain rulemaking by the State Board of Education; requires the Legislature to provide for an annual adjustment in the appropriation for class size reduction; and makes technical corrections. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$26,000,000 from state and local funds for fiscal year 2008-09 to the K-3 Class Size Reduction. This bill takes effect on July 1, 2008.

Motion was made by Member Richard Moss and seconded by Chairman Richard W. Sadler to support.

Vice Chairman Mark Cluff commented that he could not support the motion because he would like to see the money put into the wpu so districts might use it where it was most needed if they did not have a need to reduce class sizes.

Amendment to the motion was made by Member Bill Colbert to support the concept. Both original motion makers accepted the change.

Member Tom Gregory commented he would like to see money go to wpu, but to also see our priorities funded first.

Member Denis Morrill commented that he would like to see the allocation go to one of the boards priorities.

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

**HB 200 Early Childhood Learning and Evaluation - (B. Last)**

This bill establishes within the public education system a pilot project known as UPSTART which uses a home-based educational technology program to develop school readiness skills of preschool children; directs the State Board of Education to contract with an educational technology provider, selected through a request for proposals process, for the delivery of a homebased educational technology program to develop school readiness skills of preschool children; and an independent evaluator to evaluate the home-based educational technology program for preschool children; specifies standards for the home-based educational technology program for preschool children; provides for school district participation in the pilot project; requires an annual audit of the contractor's use of funds appropriated for UPSTART and an annual report on UPSTART to the Legislature; and repeals the pilot project on July 1, 2014. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$9,600,000 from the Uniform School Fund for fiscal year 2007-08 to the State Board of Education. This bill provides an immediate effective date.

Motion was made by Member Thomas Gregory and seconded by Member Kim R. Burningham to support the concept. Motion carried unanimously.

**HB 214 School Testing Specialists - (S. Sandstrom)**

This bill directs the Legislature, subject to future budget constraints, to annually appropriate money to the State Board of Education for school testing specialists to allow teachers to have more time for instruction; and requires the State Board of Education to adopt a formula for the distribution of money appropriated for school testing specialists; and make rules specifying how money for school testing specialists may be used and requiring reporting of monies spent. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$3,600,000 from the Uniform School Fund for fiscal year 2008-09 to the State Board of Education. This bill takes effect on July 1, 2008.

Motion was made by Member Greg W. Haws and seconded by Vice Chairman Mark Cluff to move on with no action. Motion carried unanimously.

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**HB 226 Disruption of School Activities - ( C. Moss)**

This bill provides that it is a class A misdemeanor to enter onto school property in order to evade law enforcement; provides that not knowing the property is school property is not a defense; and requires that the defendant reimburse the school for the costs of responding to the defendant's presence on school property. There are no monies appropriated in this bill.

Motion was made by Member Denis R. Morrill and seconded by Member Tom Gregory to move on with no position. Motion carried unanimously.

**HB 325 Bullying and Hazing - (C. Moss)**

This bill defines terms; prohibits bullying, hazing, retaliation for reporting, or assisting in the investigation of, bullying or hazing, and making a false report of bullying or hazing; requires and encourages the reporting of bullying, hazing, or retaliation; provides immunity for the good faith reporting of bullying, hazing, or retaliation; requires local school boards and local charter boards to adopt a policy, on or before September 1, 2008, for reporting and responding to bullying, hazing or retaliation; describes the minimum requirements for a policy described in the preceding paragraph; requires the State Board of Education to develop, on or before July 1, 2008, a model policy on bullying, hazing, or retaliation; and provides for training and education regarding, and the prevention of bullying, hazing, or retaliation.

Motion by Vice Chairman Mark Cluff and seconded by Member Thomas Gregory a position of unnecessary.

Substitute motion was made by Chairman Richard W. Sadler and seconded by Member Bill Colbert to support concept.

It was noted that the Board's recent policy addresses the concerns. The Board requested that a report be provided of the districts that did or did not have policies and that the Superintendent request copies of the policies.

Substitute motion failed with Members Burningham, Colbert, Jensen, Mackey, Morrill and Sadler voting in favor; Members Cluff, Gregory and Haws opposed Member Moss absent.

Original motion failed with Members Cluff, Gregory and Haws voting in favor; Members Burningham, Colbert, Jensen, Mackey, Morrill and Sadler opposed.

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**HB 329 High-ability Student Initiative Program - (B. Last)**

This bill creates the High-ability Student Initiative Program and describes its components; requires the State Board of Education to establish a grant program to encourage a licensed teacher to obtain an endorsement for gifted and talent education; conduct an evaluation of the High-ability Student Initiative Program; and make a report to the Public Education Interim Committee for three years. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$1,010,000 from the Uniform School Fund for fiscal year 2008-09 to the State Board of Education; and \$2,840,000 from the Uniform School Fund for fiscal year 2008-09 only, to the State Board of Education. This bill takes effect on July 1, 2008.

Motion was made by Member Denis R. Morrill to oppose. There being no second the motion died.

Motion was made by Member Randall A. Mackey and seconded by Member Bill Colbert to support.

Member Denis Morrill voiced concern that the \$4 million should be placed in the Boards priorities

Vice Chairman Mark Cluff noted that there is already a line item going toward this. He spoke in support of seeing it in the wpu so the school district can make the decision.

Substitute motion was made by Member Kim R. Burningham to support the concept. Members Mackey and Colbert accepted the substitute as their motion. Motion carried with Members Cluff, Burningham, Colbert, Gregory, Haws, Jensen, Mackey, Moss, and Sadler voting in favor; Member Morrill opposed.

**HB 330 S1 State Supplemental Funding for Head Start - (L. Shurtliff)**

This bill appropriates money to the State Board of Education; and directs the board to provide grants to local public and private non-profit and for-profit agencies to provide school readiness services to economically disadvantaged children and families in accordance with federal Head Start program performance standards; and supplemental funding to Head Start programs in Utah that are currently funded by the federal government. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$700,000 from the Uniform School Fund for fiscal year 2008-09 to the State Board of Education. This bill takes effect on July 1, 2008.

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Motion was made by Chairman Richard W. Sadler and seconded by Member Randall A. Mackey to support. Motion carried unanimously.

**HB 332 Use of Public Schools by Community Organizations - (G. Hughes)**

This bill requires all public school buildings and grounds to be made available as a civic center to district residents for supervised recreational activities and meetings; provides that a local school board may not refuse the use of a civic center, for other than school purposes, unless it determines that the use interferes with a school function or purpose; requires a local school board to ensure that school administrators are trained about and properly implement certain provisions; and makes technical corrections. There are no monies appropriated in this bill.

Motion was made by Chairman Richard W. Sadler and seconded by Member Richard Moss to oppose. Motion carried with Members Burningham, Cluff, Gregory, Haws, Jensen, Mackey, Morrill, Moss and Sadler voting in favor; Member Colbert opposed.

**HB 345 Minimum Age for Public Education Enrollment Amendments (E. Hutchings)**

This bill allows a student who previously attended a public school in another state to enroll in public education in Utah; and makes technical corrections. There are no monies appropriated in this bill.

Motion was made by Member Thomas Gregory and seconded by Vice Chairman Mark Cluff to support the concept with provisions for requirements for enrollment. Motion failed with Members Cluff, Colbert, Gregory, Jensen, Mackey, and Moss voting in favor; Members Burningham, Haws, Morrill and Sadler opposed.

**HB 383 Statewide Capital Outlay Equalization - (A. Tilton)**

This bill defines terms; creates the Capital Outlay Equalization Fund; requires certain school districts to impose a basic capital outlay levy that is equalized; deposits revenues from the basic capital outlay levy into the Capital Outlay Equalization Fund; makes allocations from the Capital Outlay Equalization Fund using specified criteria; creates a certified tax rate calculation related to capital outlay for school districts for purposes of truth in taxation; appropriates money for the Capital Outlay Foundation and Capital Outlay Enrollment Growth Programs; and makes technical corrections. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$27,288,900 from the Uniform School Fund for fiscal year 2008-09 to the State Board of Education. This bill takes effect July 1, 2008.

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Motion was made by Member Greg W. Haws seconded by Member Michael Jensen to watch. Motion carried unanimously.

**SB 48 S2 Equalization of School Capital Outlay Funding - (D. Eastman)**

This bill defines terms; requires certain divided school districts to impose a capital outlay levy of at least .0006 per dollar of taxable value; allocates the revenue generated under the capital outlay levy to school districts located within the qualifying divided school district; establishes a combined capital property tax rate a school district must impose to receive a full distribution from both the Capital Outlay Foundation Program and Capital Outlay Enrollment Growth Program; provides for a pro-rated distribution if a school district imposes a combined capital property tax rate less than the rate required for full funding; appropriates additional ongoing funding to the State Board of Education for the Capital Outlay Foundation Program and Capital Outlay Enrollment Growth Program; requires a reduction in the property tax certified tax rate for school districts receiving state capital outlay funding increases; requires each school district in a county of the first class to levy a capital outlay property tax at a specified rate in order to receive the state contribution toward the minimum basic program; allocates the revenue generated under the capital outlay levy to school districts located in a county of the first class; amends truth in taxation notice and hearing requirements for school districts imposing the mandatory portion of the capital outlay levy; amends the calculation of the certified tax rate with respect to the capital outlay levy; and makes technical corrections. This bill appropriates as an ongoing appropriation subject to future budget constraints, \$56,000,000 from the Uniform School Fund for fiscal year 2008-09 to the State Board of Education. This bill provides effective dates and provides for retrospective operation. This bill coordinates with H.B. 1, Minimum School Program Base Budget Amendments, by providing superseding amendments.

Motion was made by Member Thomas Gregory and seconded by Vice Chairman Mark Cluff to watch. Motion carried unanimously.

**HB 419 Public School Textbook Evaluation Amendments - (G. Froerer)**

This bill modifies who may perform an evaluation; requires the State Board of Education to make certain rules; and makes technical corrections. There are no monies appropriated in this bill.



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Motion was made by Vice Chairman Mark Cluff and seconded by Member Richard Moss to support. Motion carried with Members, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, MOrrill, Moss and Sadler voting in favor; Member Haws absent.

**HB 426 Government Procurement - Private Proposals - (K. Garn)**

This bill makes legislative findings; creates a program allowing the submission of a proposal to provide a product or service to the Department of Technology Services or the State School Board; requires the Board of Business and Economic Development to appoint a committee to evaluate a proposal under the program; defines terms; addresses the requirements of an initial proposal submitted to the committee; provides for review of an initial proposal by the committee and the affected department; addresses the issuance of an invitation for detailed proposals if the initial proposal is accepted by the committee; provides requirements for a detailed proposal; makes an initial proposal a protected record under Title 63, Chapter 2, Government Records Access and Management Act; allows the committee, by rule, to maintain certain portions of an initial proposal as a protected record; addresses cooperation between a private entity submitting a detailed proposal and the affected department; requires the Governor's Office of Planning and Budget to prepare an economic feasibility report concerning a detailed proposal; provides for the acceptance of a detailed proposal and the preparation and execution of a project agreement; creates a restricted account, comprised of monies collected from fees for submitting a proposal; establishes uses for which monies may be expended from the restricted account; requires the establishment of fees for proposals and project agreements; allows for the appointment of an advisory committee to assist the committee in evaluating proposals and preparing project agreements; and makes technical changes.

Motion was made by Member Bill Colbert and seconded by Vice Chairman Mark Cluff to watch. Motion carried unanimously.

**SB 61 Financial and Economic Literacy Education - (P. Jones)**

This bill creates a financial literacy passport that tracks mastery of financial literacy concepts and is optional for students; requires the State Board of Education to work with private and non-profit entities to create the financial literacy passport; coordinate financial literacy instruction with existing instruction; create staff development programs and assessments; and make rules related to financial literacy education; requires an annual report to the Education Interim Committee for five years; and makes technical changes. This bill appropriates: as an

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ongoing appropriation subject to future budget constraints, \$100,000 from the Uniform School Fund for fiscal year 2008-09, to the State Board of Education for financial literacy professional development and assessments; and \$150,000 from the Uniform School Fund for fiscal year 2008-09 only, to the State Board of Education for curriculum integration and development of assessments and materials related to financial literacy. This bill takes effect on July 1, 2008.

Motion was made by Member Kim R. Burningham and seconded by Member Michael Jensen to support the concept. Motion carried unanimously.

**SB 142 High School Graduation Requirements - (M. Madsen)**

This bill allows a student who resides in Utah to receive a high school diploma if the student passes the basic skills competency test and receives certain scores on the ACT. There are no monies appropriated in this bill.

Motion was made by Member Thomas Gregory and seconded by Member Bill Colbert to oppose. Motion carried with Members, Burningham, Colbert, Gregory, Haws, Jensen, Mackey, Morrill and Sadler voting in favor; Members Cluff and Moss opposed.

**SB 190 Public Classroom Displays - (A. Christensen)**

This bill requires a public school classroom to display the United States flag; requires a public school classroom in grades 4 through 12 to display a copy of the United States Constitution; provides intent language relating to the funding of the display items; and makes technical corrections. There are no monies appropriated in this bill.

Motion was made by Member Denis R. Morrill and seconded by Member Randall A. Mackey to pass with no action. Motion carried with Members Burningham, Cluff, Gregory, Haws, Jensen, Mackey, Morrill, Moss and Sadler voting in favor; Member Colbert opposed.

**SB 234 Minimum School Program Amendments - Counseling and Guidance Programs - (M. Dmitrich)**

This bill directs local school boards to establish comprehensive counseling and guidance programs for students in kindergarten through grade 12; establishes a ceiling for the state contribution to the maintenance and operations portion of the Minimum School Program for fiscal year 2008-09 of \$2,336,677,131; provides an appropriation for comprehensive counseling and guidance programs; specifies how money appropriated for comprehensive counseling and guidance programs shall be distributed to schools; and makes technical amendments. This bill appropriates as an ongoing appropriation, \$2,315,677,131 from the Uniform School Fund for

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fiscal year 2008-09; and as an ongoing appropriation, \$21,000,000 from the Interest and Dividends Account for fiscal year 2008-09. This bill takes effect on July 1, 2008. This bill coordinates with H.B. 1, Minimum School Program Base Budget Amendments, by providing substantive superseding amendments.

Motion was made by Chairman Richard W. Sadler and seconded by Member Randall A. Mackey to support with comment that ratios should match the funding. Motion carried unanimously.

### **Updates**

#### **HB 67 Extended Year for Special Educators R. Menlove)**

This bill directs the Legislature to annually appropriate money for stipends for special educators in the amount of \$200 per day for up to ten additional days of work; and requires special educators to: schedule the additional days of work before or after the school year; and use the additional days of work to perform duties related to the IEP process.

Motion was made by Member Denis R. Morrill and seconded by Member Michael Jensen to support. Motion carried unanimously.

#### **HB 84 Compensation of Educators with National Board Certification (J. Bird) / SB 91 Benefits to American Board Certified Teachers (M. Madsen)**

**HB 84** - This bill directs the State Board of Education to establish a program for school districts and charter schools to provide additional compensation for teachers who obtain National Board certification; requires school districts and charter schools to provide matching funds to qualify for the program; and specifies how program monies may be used. This bill appropriate: as an ongoing appropriation subject to future budget constraints, \$275,000 from the Uniform School Fund for fiscal year 2008-09 to the State Board of Education. This bill takes effect on July 1, 2008.

**SB 91** - This bill creates a program to provide grants to school districts and charter schools to: pay for the direct costs of teachers to obtain the American Board Distinguished Teacher certification; and provide additional compensation to teachers who obtain the American Board Distinguished Teacher certification; requires a school district or charter school to provide matching funds to receive a grant; provides that school district or charter school participation in the grant program voluntary; and directs the State board of Education to make rules. This bill

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appropriates: as an ongoing appropriation for fiscal year 2008-09 \$275,000 to the State Board of Education. This bill takes effect on July 1, 2008.

Motion was made by Member Richard Moss and seconded by Vice Chairman Mark Cluff to support the concept on both bills. Motion carried with Members Cluff, Gregory, Haws, Jensen, Mackey, Morrill, Moss and Sadler voting in favor; Members Burningham and Colbert opposed.

**HB 127 S2 Community Council Elections (K. Sumsion) / HB 254 S1 School Community Council Amendments R. Menlove) / HB 189 School Community Councils (R. Bigelow)**

**HB 127 S2** - This bill adds provisions for conducting elections of members of school community councils by secret ballot; requires the principal of the school, or the principal's designee, to provide notice of the available community council positions at least 21 days before the date of the election, in order to allow candidates to file for office; requires candidates to file a written declaration of candidacy with the principal of the school, or the principal's designee, no later than 15 days before the election; requires that a notice of the election for parent or guardian members include a list of candidates that have filed, and the dates, location, and hours that the voting will be open, which shall include evening hours, not less than two weeks before the election; provides procedures for elections of parent or guardian members, including requirements that: the principal of the school, or the principal's designee, act as the chief election judge for the election; the chief election judge appoint other election judges to ensure that at least two election judges are present during voting and tabulation of the results, that only qualified individuals vote, and that ballots are secure; voters sign the list of qualified voters next to their name before being given a ballot; the election judges tabulate the results and keep the election materials for a certain period after the election; and makes technical changes. This bill coordinates with H.B. 254, School Community Council Amendments, by substantively modifying language.

Motion was made by Member Thomas Gregory and seconded by Vice Chairman Mark Cluff to support HB 127 S2. Motion carried unanimously.

**HB 189** - This bill requires a school community council to provide the following information to each household that has a student attending the school: a school community council meeting schedule for the year; a mid-year action and activity report; and an end-of-year

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report, including how the school's School LAND Trust Program monies were used; specifies delivery methods for the information; and makes technical corrections. This bill takes effect on July 1, 2008.

Motion was made by Member Bill Colbert and seconded by Vice Chairman Mark Cluff to support HB 189.

Substitute motion was made by Member Thomas Gregory and seconded by Vice Chairman Mark Cluff to support concept with the comment that posting it on school web site is sufficient because of the cost. Motion carried with Members Burningham, Cluff, Colbert, Gregory, Haws, Jensen, Morrill, Moss, and Sadler voting in favor; Member Mackey opposed.

**HB 274 Utah K-8 Online Virtual School (B. Ferry)**

No Action

**HB 286 Permanent Teacher License Revocation for Sexual Activity with Students C. Wimmer) / HB 287 S1 Regulation of Teacher - Student Relationships (S. Sandstrom**

**HB 286** - This bill requires the State Board of Education to permanently revoke an educator's license if the educator commits a sexual offense against a minor or engages in sexual activity with a student; and makes technical corrections.

**HB 287 S1** - This bill requires the State Board of Education to revoke an educator's license if the educator commits a sexual offense against a minor or engages in sexually explicit conduct with a student; and makes technical corrections.

Motion was made by Member Randall Mackey and seconded by Member Bill Colbert to support concept of most recent draft of both bills, but the Board needs to see what actual language ought to be. Motion carried unanimously.

(For complete details of all materials presented see General Exhibit No. 10474.)

Motion was made by Member Bill Colbert and seconded by Member Richard Moss to adjourn. Meeting adjourned at 12:15 p.m.