

## MINUTES

September 7, 2007

Minutes of the meeting of the State Board of Education held September 7, 2007, at the Holiday Inn, St. George, Utah. Meeting commenced at 10:15 a.m. At the request of Chairman Kim R. Burningham Vice Chairman Janet A. Cannon presided.

Members present were:

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

Member Josh Reid was excused.

Also present were:

- Superintendent Patti Harrington
- Associate Superintendent Brenda Hales
- Associate Superintendent Patrick Ogden
- Associate Superintendent Judy Park
- Associate Superintendent Larry Shumway
- Board Secretary Twila B. Affleck

Public Affairs Director Mark Peterson and Executive Director, USOR, Don Uchida were excused.

Members of the Press:

- Lisa Schencker, Salt Lake Tribune
- Mary Gifford, K-12 for Business Administrator Services
- Jolayne Nelson, Coral Cliffs Elementary School
- Stacey Larson, Coral Cliffs Elementary School
- Peggy Crammer, Coral Cliffs Elementary School
- Karl Kelly, Coral Cliffs Elementary School
- Robyn Bishop, Coral Cliffs Elementary School

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### Welcome and Student Achievement Spotlight

Vice Chairman Janet A. Cannon called the meeting to order. She shared a State Board quiz.

Vice Chairman Janet Cannon excused Member Josh Reid and staff members Mark Peterson and Don Uchida.

Board Member Cyndee Miya lead the Board in the Pledge of Allegiance.

Board Member Richard Moss offered opening remarks noting the 220 anniversary of the signing of the United States Constitution. He shared a CD entitled “Four Centuries of American Education” by David Barton and a DVD “A More Perfect Union” produced by BYU about the Constitutional Convention. He also shared some words “Inspire Them...” Member Moss then offered a prayer.

Associate Superintendent Brenda Hales presented a team of special education professionals from Coral Cliffs Elementary School, Washington School District. She noted that this team of educators have been very dedicated to helping students who experience difficulty learning.

The Board recognized Jolayne Nelson, Stacey Larson, Peggy Crammer, and Karl Kelly for their dedication to helping students who have special needs. Each were presented a Certificate of Excellence.

### Board Standing Committee Reports

#### **Law & Policy Committee**

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

#### Utah Educator Standards, R277-515

This rule is established as a result of a survey, research, and development by a broad group of educators. The new rule establishes statewide standards for licensed public school educators, provides notice to educators and prospective educators and notice and protection to public school students and parents. The new rule recognizes that licensed public school educators are professionals and as such, should share common professional standards, expectations and role model responsibilities. The revised rule makes a new distinction: some educator behaviors/activities shall result in license discipline, ranging from a warning letter to revocation. Other behaviors/activities may result in license discipline, depending upon the facts

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of the situation, the pattern of behavior and other factors. This suggested reorganization comes from school district personnel and the Utah Education Association. USOE staff met with UEA representatives in August, with the result that wording in the rule was improved and clarified considerably. (For complete details of the rule see General Exhibit No. 10328.)

The Committee amended the rule on page 11, lines 363-364 changing A to read: This rule establishes standards of ethical decorum and behavior for licensed educators in Utah.

The Law and Policy Committee reviewed and approved R277-515 as amended on first reading and moves that the Board approve Utah Educator Standards, R277-515 on second reading. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Haws, Jensen, Mackey, Morrill, Moss, Roberts, Sadler and Theurer voting in favor; Member Gregory absent.

#### K-16 Alliance

The Board has been considering the K-16 Alliance report and recommendations. One of the recommendations is to “maximize the use of existing K-12 teachers and capital facilities by significantly modifying the traditional school years and/or school day.”

Associate Superintendent Larry Shumay presented a briefing on the varieties of extended-year models in use in other states. The briefing gave particular attention to secondary models and to successes or failures of models. (For complete details see General Exhibit No. 10329.)

The Committee received the information and noted that it will be receiving a draft of the Request for Proposal for pilot projects in October as well as more data by the November board meeting.

#### ProExcel

ProExcel is among the “tier one” priorities selected by the Board for the 2008 session of the legislature. An important part of the ProExcel program is differentiated compensation.

Associate Superintendent Larry Shumway presented a briefing on the varieties of differentiated compensation models in use in other states. The briefing gave particular attention to successes or failures of models around the nation. Also presented was a document, Performance-Pay for Teachers and a document identifying the three-prong approach for ProExcel. (For complete details see General Exhibit No. 10330.)

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Member Roberts reported that this was passed out of committee with concerns by some members of the committee. Their recommendation is to proceed with this, with the idea that it needs some in-depth full board discussion of the direction we are going.

Member Roberts asked for some discussion and agreement by the Board of the direction for Differentiated Compensation. She indicated that with the Governor's encouragement we are trying to create a broad coalition of support for ProExcel. That means a compromise position that we may not be convinced is the best way we should go.

Member Roberts reviewed the differentiation proposals for Math and Science Majors; Special Educators and Performance Based Differentiated Compensation.

Associate Superintendent Larry Shumway explained that as this was developed we tried to leverage this money and do three things at once: (1) find a way to attract and retain math and science teachers by increasing their earnings; (2) to address the need of helping us improve math and science instruction; and (3) to address the recommendation in the K-16 Alliance to extend the school year.

Chairman Kim Burningham suggested that although the math, science and special education are shortage areas, he would like to see some flexibility for districts to use the monies for other areas they may have shortages.

Dr. Shumway responded that they were trying to fit this into the \$25 million they are hoping to get, we could change this slightly and find some money for an allocation to districts for locally determined need.

Member Teresa Theurer suggested that the PJEP Committee be presented this information because they have dealt with different aspects of this proposal for years.

Motion from the Committee that the Board is willing to continue discussion to move forward on these differentiated compensation for math and science and special education adding in piece for local district latitude; and having appropriate discussions with people around the state such as the PJEP Committee.

Member Tom Gregory indicated that the Committee discussed but did not take a formal motion relative to making sure incentives for working in low-income, high poverty, Title I schools was more formally made a part of this program.

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Member Tom Gregory offered an amendment to the motion, seconded by Member Mark Cluff that as part of the ongoing discussion in the building of the ProExcel program we consider incentives for all licensed positions in Title I schools.

Member Gregory indicated that this was part of the ProExcel discussion for about a year and he did not want to see it lost.

Associate Superintendent Larry Shumway indicated that Title I schools are elementary schools which is an entirely different group from the math and science group. In elementary schools every teacher is a core teacher. This would have a significant impact, and the question is what size the incentive would be and how large does the incentive need to be to actually have an impact. This would be a sizeable amount of money.

Member Debra Roberts commented that rather than Title I it needs to be along the lines of high risk, under performing schools, rather than Title I.

Member Gregory clarified that the intent of his amendment is to make sure this is included in the discussion.

Member Teresa Theurer voiced concern with just receiving this information this morning and she is uncomfortable moving on this today.

Member Roberts indicated that the motion was not necessarily an action in terms of a policy decision but asking the Board for a formal consensus as to the direction this is now going.

Member Richard Sadler commented that the alternative is that this is the direction we are going and if you have suggestions please let us know.

Member Dixie Allen suggested changing from Title I to low performing schools in the amendment. Members Gregory and Cluff agreed to the change.

Superintendent Harrington clarified that ProExcel is part of the Board's budget, today's discussion continues to frame what we are doing in the office to bring it back to the Board for further action. What has been suggested today is adding an addendum for low performing, and to include PJEP in the discussions.

Member Debra Roberts commented that her concern in getting Board approval for the direction is that this is a major shift of how we are handling the math and science.

Chairman Burningham clarified that originally we said we would reward based on crisis areas/critical shortages, the shift is to critical shortages but they must perform additional days to do it.

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Member Dixie Allen asked that math and science educators looked at this because she did not see them supporting more money for more work.

Member Mark Cluff commented that he is not comfortable with limiting this to math and science teachers but would like the districts have the option for what they see as their critical shortages. He felt it should be differential pay in the sense of what it means, more pay for doing the same work.

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

Original motion to change from looking at bonus' to adding days to be able to give bonus' to teachers, and to continue discussion with the PJEP Committee. Motion carried with Members Brown, Burningham, Cluff, Gregory, Haws, Jensen, Mackey, Morrill, Moss, Roberts and Sadler voting in favor; Members Allen, Colbert and Theurer opposed.

Member Roberts indicated that in order to have grass roots discussions this needs to come from teacher comfort, their desires of how this would be done. Therefore, the Committee is requesting as part of ProExcel a piece of money to continue that discussion. However, they feel the discussion can start right now with some "soft" money. This would be the "how" we are going to do it, not the "if".

Member Denis Morrill commented that having served on a local board and trying to do this and it is difficult. The only way it can be done effectively is subjectively.

#### Legislative Strategy

The Board sets priorities for each legislative session. Support for the Board's priorities must be developed in the Legislature, and with individual legislators. Legislators need accurate information and clear understanding regarding the Board's positions. The Utah state Office of Education needs to be an effective instrument for the Board to ensure this communication.

Associate Superintendent Larry Shumway presented information on plans to improve the communication and interaction of the Utah State Office of Education with legislators. (For complete details see General Exhibit No.10331.)

The Committee received the information indicating that Board Members will be asked to work with USOE staff to implement parts of the plan. No action was required.

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Member Roberts reported that Superintendent Harrington asked for some broad Board discussion on the following legislative items:

- (1) UBSCT and special education completion
- (2) Committee on Drop Outs and the remediation money and the UBSCT remediation money being used to benefit students.
- (3) Adding foreign language as a graduation requirement.

On October 17 there will be a Board legislative meeting inviting all legislators to attend. They are planning to do it in such a way that there is not a lag time between the meeting and when they complete their interim meetings. She reviewed the proposed agenda for the meeting.

### **Curriculum Committee**

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

#### Special Education Rules

At the regularly scheduled August Board meeting, the Draft State Special Education Rules passed the first and second readings of the Board. Changes were suggested by the Curriculum and Instruction Committee. The Committee asked that the new draft, with changes incorporated, be brought back to the Committee for consideration before being considered by the full Board.

Nan Gray, Director of Special Education presented the revisions made to the State Special Education Rules since the August meeting. (For complete details see General Exhibit No. 10332.)

Motion from the Committee that the Board adopt the Special Education Rules on third and final reading. Motion carried unanimously.

#### Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students, R277-616

The amendments to this rule provide for terminology changes to make the rule consistent with the terminology used in the federal law. The amendments also add the section of the Utah Code that provides for emancipation of minors to the rule.

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Karl Wilson, Education Director for Title I, reviewed the amendments to the rule. (For complete details see General Exhibit No. 10333.)

The Committee approved the amendments to R277-616 on first reading and moves that the Board approve R277-616, Education for Homeless and Emancipated Students and State Funding for Homeless and Economically Disadvantaged Ethnic Minority Students on second reading. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Roberts, Sadler and Theurer voting in favor; Members Haws and Moss absent.

Standards for School District  
Discipline Plans, R277-609

H.B. 286, School Discipline and Conduct Amendments, 2007 Legislature, requires school districts/schools to include language regarding disruptive student behavior in their discipline plans. The amended rule required school districts and charter schools to develop and implement school management and discipline strategies and policies. The amended rule provides a definition of disruptive student behavior, provides for parent/guardian notification and participation in addressing disruptive student behavior, and provides for the development of Utah State Office of Education model policies. (For complete details of the rule see General Exhibit No. 10334.)

The Committee reviewed the amendments to the rule and had several concerns about the language and asked staff to take this back and get more input from districts and parents to make sure we are doing what is best for students.

Adult Education Programs, R277-733

Utah Constitution Article X, Section 53A-15-401 places general control and supervision of Adult Education Programs under the Board. The Adult Education rule as presently written is out of date with both state and federal adult education policy and procedures. The Adult Education rule as it presently stands is to be repealed and reenacted with the reenacted rule defining the present and future direction of adult education. The proposed rule requires school districts/adult education programs and community-based organization accepting state and/or federal adult education funds to provide services to adult learners based on state and federal adult education standards and policies. The proposed rule provides definitions, program standards fiscal procedures, pupil accounting curriculum standards and data management

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standards appropriate for adult education learners. An amended rule was reviewed by the Committee. (For complete details of the rule see General Exhibit No. 10335.)

In addition to the amendments that were presented the Committee further amended the rule on page 8, to move lines 320 to 355 ahead of line 288, moving the exceptions to the end rather than the beginning. The rule also more strictly defines how the WPU follows the student.

The Committee reviewed the new rule for reenactment and approved as amended R277-733 on first reading and moves that the Board approve R277-733, Adult Education Programs on second reading. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Roberts, Sadler and Theurer voting in favor; Members Haws and Moss absent.

### **Finance Committee**

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

#### Review and Adoption of Tier III Budget Request

Tier III budget requests are those that are necessary for the sustaining of current programs. These include enrollment growth, increases in the value of the WPU, replacement of one-time funding for ongoing programs, etc.

The Committee reviewed the Tier III budget requests. (For complete details see General Exhibit No. 10336.) The Committee approved the order of 1-13 as presented. Motion from the Committee that the Board adopt the order (noting they are not in priority order); including a 10% increase in the WPU. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Roberts, Sadler and Theurer voting in favor; Members Haws and Moss absent.

The Committee added to the One-Time and Supplemental Appropriations \$1 million one time monies to be available to the districts if there are losses in the vending machine revenues.

Motion from the Committee to approve the three one- time supplemental requests. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Roberts, Sadler and Theurer voting in favor; Members Haws and Moss absent.

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Standards for Selling Foods of Minimal  
Nutritional Value in Schools, R277-719

In the August meeting the Finance Committee directed staff to draft a rule restricting the sale of foods of minimal nutritional value in schools.

The new rule requires districts and charter schools to adopt a policy regarding vending machines in schools. The policy must:

- Require a written contract approved by the governing board;
- Outline acceptable uses of vending machine revenue;
- Require the handling of and accounting for vending machine receipts according to generally accepted accounting procedures including periodic reporting to the district or governing board of the use of the revenue;
- Prohibits the sale of foods of minimal nutritional value in the school during the school day.

(For complete details see General Exhibit No. 10337.)

Modifications were made by the Committee and they asked that the rule with these changes come back to the committee next month. The changes are:

- Foods Definition - more of what that definition is in the rule;
- Line 38, instead of campus wide, change to anywhere on campus;
- Line 57, a D or a new 5 stating that foods with caffeine would not be allowed;
- Add a date this would become effective, not just when the rule is finally approved, and proposed that July 1, 2008 be the date this would be implemented; and
- a definition added for unit.

No action was taken this will come back to the committee in October.

Review and Discussion of Capital Equalization

The Legislature met in special session on August 22, 2007 to consider legislation regarding equalization of funding for school district capital outlay in counties of the first class.

The intent of capital equalization, as described by legislative staff, is to:

- Allocate funds to school districts based on (a) the new enrollment growth formula – districts with low valuations per student get more than the base amount, districts with high valuations per student get less – and (b) the capital outlay foundation program;
- Fund the allocations by (a) requiring each district to send in revenues from a uniform rate or revenues that would be generated by a uniform rate, (b) redirecting \$2.9 million ongoing capital outlay enrollment growth money to

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the foundation program, and © recapturing revenues from districts affected by the rate of reduction limitation explained below;

- Adjust each district's certified tax rate (up for net contributors, down for net recipients) so that each district ends up with the same amount of revenue as they would otherwise have under their existing capital outlay levies, with a limitation that a net recipient district cannot drop its rate below a certain threshold. (Revenues from the difference between the threshold rate and the rate that would provide the district with the same amount of revenue is sent back to the "pool" for distribution, so the district still ends up with the same amount of revenue.)
- Districts whose taxpayers receive tax decreases could then (potentially) increase their capital outlay revenues after truth in taxation.

The Committee reviewed the information and became informed of the issues surrounding the State Legislature's discussion of capital equalization. (For complete details see General Exhibit No. 10338.)

No action was required.

#### Options for Increasing Per Pupil Funding in Utah

The Committee did not have time to discuss this issue.

#### Public Participation/Comment

No requests were received

#### Lunch

The Board recessed for lunch with Representative Dave Clark.

#### Executive Session

Motion was made by Member Richard Sadler and seconded by Member Dixie Allen to move into an Executive Session for the purpose of discussing personnel issues. The Board was polled and my unanimous consent of those present [Greg Haws absent] the Board moved into an executive session following lunch at 1:25 p.m.

Motion was made by Member Dixie L. Allen and seconded by Member Laurel Brown to reconvene into open meeting. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Gregory, Jensen, Mackey, Morrill, Roberts, Sadler and Theurer voting in favor; Members Haws and Moss absent. The Board reconvened at 1:50 p.m.

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

Motion was made by Member Denis R. Morrill and seconded by Member Richard Sadler to adopt the Commission's recommendation in Case No. 04-698 and the recommendation

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of the hearing panel following a hearing for reinstatement of the educator license of a former educator in the Alpine School District. It was noted that the license was previously suspended as a result of the educator accessing inappropriate Internet sites on his school computer. It was further noted that the hearing report was reviewed in executive session. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Jensen, Mackey, Morrill, Roberts, and Sadler voting in favor; Members Gregory, Haws, Moss and Theurer absent.

Motion was made by Member Denis R. Morrill and seconded by Member Richard Sadler to adopt the Commission's recommendation in Case No. 06-787 to accept a stipulated agreement, including conditions of the agreement, whereby a former educator in the Provo School District voluntarily surrenders her educator license in lieu of a hearing for purposes of suspension of her license for two years from the date of formal action by the State Board of Education. The suspension results from the educator, according to her own admissions, engaging in an inappropriate and sexual relationship with a former student for a period of at least six months. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Jensen, Mackey, Morrill, Roberts, and Sadler voting in favor; Members Gregory, Haws, Moss and Theurer absent

(For complete details see General Exhibit No. 10339.)

#### **Utah State Rehabilitation Council**

Motion was made by Member Michael Jensen and seconded by Member Dixie L. Allen to appoint the following to the State Rehabilitation Council: Ralph Glathar, Holly Williams, Betty Bennalley, Tim Tiernan, and Vickie Brenchley. To reappoint: Delena Fish, Rebecca Wassem, Melanie Bike, Susan Loving and Kraig Stephens. Terms to expire 9/2010. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Jensen, Mackey, Morrill, Roberts, and Sadler voting in favor; Members Gregory, Haws, Moss and Theurer absent.

#### **Utah State Independent Living Council**

Motion was made by Member Michael Jensen and seconded by Member Dixie L. Allen to appoint the following to the Utah State Independent Living Council: Janice F. Kegel and Kaysie Solomon. To reappoint: Lester Ruesch, Marilyn Mitchell and Vickie Brenchley. Terms to expire 10/2010. Motion carried with Members Allen, Brown, Burningham, Cluff, Colbert, Jensen, Mackey, Morrill, Roberts, and Sadler voting in favor; Members Gregory, Haws, Moss and Theurer absent

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### Executive Officer Report

Superintendent Patti Harrington presented the following items of information:

#### Information Items:

- Charter School students participating in sports activities in their neighborhood high school.
- Utah Schools for the Deaf and the Blind superintendent position is open. A Task Force has been formed relative to a different governance structure and that report will be made to the board next month.
- The agreement with the American Academy has been signed and the work is progressing.
- The “Road to Success” program has been initiated in 50 elementary schools. This is the K-6 complement to the high school program called “Keys to Success” program sponsored by the Ken Garff group.
- We will be expected in the Public Utilities and Technology Interim Committee to present the technology plan for the schools of the state. The executive team at the State Office has agreed that we need to review and revise some of our strategies and our resource allocation related to those strategies. The plan has been revised and will be e-mailed to the Board prior to presentation to the legislature next week. The plan will still read Draft as it is presented.
- Reviewed the Education Interim Committee meeting agenda and indicated that the math core is under review by that committee.

Brenda Hales presented a summary of where we are with the math core. She reported that our math standards are up to international standards of what math standards should look like. Our standards involve both drill and practice and exploration. She encouraged the Board to stick with the moderate, sensible approach to mathematics instruction. She is also looking at the language in the introduction to the core so it doesn't have words that insight either side to frenzy.

Dr. Harrington reported that the K-16 Alliance has been working on how we might have a seamless assessment program between high schools and colleges. We believe we have struck an agreement of where we might have a new plan emerging. However, we feel our emphasis should be on formative or on-going assessment that informs teachers, parents and students as opposed to a summative assessment. She reviewed the charts presented. She

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indicated that after looking at this information we may want to look at how we are doing U-PASS testing and perhaps we may want to undergo a revision. None of this can happen without legislative action. The move would be toward formative assessment.

Dr. Harrington then reviewed a draft of the Possible Future Diploma Requirements based on these tests and the costs.

Dr. Harrington reported that this subject is also one that is expected at the Legislative Interim Committee meeting.

Member Debra Roberts requested information in written format for adaptive testing.

Dr. Harrington noted that Board Members had received a booklet from National Council of Teacher Quality that gives a dismal picture of Utah. Associate Superintendent Larry Shumway shared information on this document. He reported that the Council of Chief State School Officers has reviewed this and is concerned that policies that NCTQ are not based on research but rather from their own general preferences. Most of the states received very bad grades because it is an interesting approach to changing policies around the country. However, we need to look carefully at this to see what we can learn to possibly change our policies relative to educator licensing.

(For complete details of the Executive Officer report see General Exhibit No. 10340.)

#### Board Chairman Report

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

Chairman Burningham indicated that leadership is still reviewing the placement of the chair and executive officer reports on the agenda.

Member Laurel Brown updated the Board on the Adolescent Literacy Grant from NASBE.

Member Michael Jensen reminded and encourage the Board to attend the Teacher of the Year Banquet following next Board meeting.

Member Mark Cluff reported that the NASBE Annual meeting is next month in Philadelphia. Chairman Burningham indicated that we will need to take action on policy and bylaw changes which will be in the General Consent Calendar next month for action. He asked that Board members review these documents that were mailed to them.

Chairman Burningham shared a Revised Proposed Meeting schedule which will appear in the General Consent Calendar in October for adoption.

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Chairman Burningham asked the Board to consider changing the November 2<sup>nd</sup> meeting to November 9<sup>th</sup> which is following the election and gets it out of the focus of the election.

Motion was made by Member Greg W. Haws and seconded by Member Richard Sadler to move the November 2 board meeting to Nov 9. Motion carried with Members Allen, Brown, Burningham, Colbert, Haws, Jensen, Mackey, Morrill, Moss, Roberts, and Sadler voting in favor; Member Cluff opposed; Members Gregory and Theurer absent.

Chairman Burningham noted that the Board Study groups met yesterday and have come to conclusion and recommendations which we expect will be presented in our October and November board meetings.

Chairman Burningham noted the following calendar items:

September 17 - Meeting with the Governor, and the Board Leadership meeting.

September 18 - K-16 Alliance Meeting

September 10 - the Citizens for Education Excellence - they will be looking at ELL and minority issues and Associate Superintendent Brenda Hales will be making major presentations to the group.

Chairman Burningham noted that the Governor is forming a Child and Family Cabinet Council which will seek to focus more on children's issues. He has included on the Council representatives from the Department of Health, Corrections, Health & Human Services, Workforce Services, the Attorney General's Office and two State Board Members. The Board Members that indicated an interest in serving on this Council were Teresa Theurer and Debra Roberts and they will be serving on that council.

Chairman Burningham reported that during the meeting of the standing committee chairs they brought up that on occasion there is an extremely important matter that is important to you that is brought up in a committee that you are not a part of. There is nothing wrong with a Board Members indicating to their committee chair that they want to be excused to attend another committee meeting for such items. This will help cut down the time in board meetings. He further noted that effective reading and preparation prior to Board meeting is helpful.

Chairman Burningham noted that Associate Superintendent Larry Shumway is planning to visit a number of legislators and as he does he would like to take board members closest to the area with him. He encouraged Board members to try to attend.

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Superintendent Harrington noted that the afternoon of September 19<sup>th</sup> there is a taxation interim committee meeting in which they will be considering a repeal of the reading levy. Associate Superintendent Patrick Ogden commented that while they are talking of repealing the property tax they would replace it with income tax.

#### Utah State Charter School Board Recommendations

##### **Utah Virtual Academy**

The 2007 Utah Legislature passed H.B. 164, Charter School Amendments, which limits charter school growth to 5,000 students for the 2008-2009 school year. The Utah Virtual Academy was recommended by the State Charter School Board for approval by the State Board of Education to open in the 2008-2009 school year. (For complete details, see General Exhibit No. 10341.)

Marlies Burns, Executive Director of the State Charter School Board noted that there were concerns that came up when Gary Belliston, Internal Auditor for State Charter Schools reviewed that they felt the Board should be aware of. There is a performance incentive fee in their three year budget for their curriculum provider which may be up to 50% of a surplus. This is something we have not seen with other charter schools. This would be coming from state or federal funding coming to the school. She further indicated that it did show that if there were three years of deficit they would be forgiving.

A second area of concern is about the that 17% of revenue for administrative services and 7% of revenue for technology services, for a total of 24% will go to the curriculum provider. Based on the 2006 legislative audit this does not fall in line with other service providers for like services.

Ms. Burns noted that these areas were discussed by the State Charter School Board and Utah Virtual Academy has brought back answers. The Charter School Board was more concerned that the parent board understood exactly what this would mean. There is nothing illegal in what they are asking to do, it is just different. This will cost approximately \$870 per pupil for administrative services whereas other providers who offer similar services cost approximately \$450 per student.

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The parent board consists of parents who currently have children participating in K-12 who would like to see it offered for free for public school students.

Superintendent Harrington commented that there is a distinctive difference in the financial issue. We have built the Electronic High School around what it costs to deliver the education versus the set amount per student. This school would receive a set amount per student regardless of the costs. We need a virtual school K-12 and if this is the right model, that is for the Board to decide.

Member Mark Cluff commented that he is in support of the school, the curriculum is very good, but we may need to look at how we fund our virtual schools.

Member Bill Colbert questioned the security of the system.

Mary Griffiths with K-12 for Business Administrator Services commented that there will be a secure portal that every family would go into, the computers come with Cybersitter and other links. The links will not take families to the world wide web. She also addressed the training provided for families that are not internet savvy.

Member Denis Morrill questioned if this would violate any of the contract entered into with American Academy. Superintendent Harrington responded that it would not. However, she has directed her staff to develop a K-8 virtual school which may be in competition.

Motion was made by Member Richard Sadler and seconded by Member Richard Moss to approve the Utah Virtual Academy Charter School to open in the 2008-2009 school year. With specific guidelines to the Utah State Charter School Board to audit the finances on a year to year basis noting what kinds of profits are going to K-12 as opposed to other schools, how many students are involved, what kinds of students are involved. Also this will give the State Office some guidance on how we might do some things. He further noted that because things are legal, they may not be ethical, and we need to make certain that things are done in an ethical fashion. Further, with an opportunity for a charter revocation if it is deemed necessary.

Vice Chairman Janet Cannon turned to the gavel over to Chairman Burningham.

Vice Chairman Janet Cannon voiced opposition to the motion stating that she is concerned with the public tax dollars funding education. We have a poorly funded education system and now we have a poorly funded charter school system. We have worked very hard on an electronic high school which is done at cost. We are on the verge of doing an electronic K-8

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school which will probably be done at cost also. She stated that she felt this is an expensive alternative for students and not a wise use of state funds.

Member Bill Colbert spoke in support of the motion indicating that this offers potential help for students who will need additional help with computer savvy.

Member Denis Morrill spoke against the motion indicating his concerns on the costs and the management fee for these services.

Member Mark Cluff commented that the electronic high school has focused on a certain class of individuals who are self-motivated and already have their own computer and Internet access. This is a service that can go to individuals of lower income or special needs. We are doing it at the same cost of any other charter school.

Member Richard Sadler commented that we have a tried and tested and yet we are concerned about some monetary aspects that are very important and we need to monitor this carefully. Further, we have an opportunity to have them experiment with our children and learn from what is happening and still maintain control as to whether or not this continues.

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

The gavel was handed back to Vice Chairman Cannon.

#### **Ogden Preparatory Academy**

The Ogden Preparatory Academy opened in the 2003-2004 school year and is currently in its fourth year of operation serving grades K-9. OPA requested a waiver from State Board Rule R277-470(14) *Expansion for Approved Charter Schools* as the definition for expansion is “a proposed increase of students or grade level(s) in an operating charter school at a single location.” Recently OPA became landlocked in its current location and the only alternative at this time, to house the approved number of students, is to seek a building at a separate location. The State Charter School Board unanimously recommends this action to the State Board of Education with the stipulation that OPA be allowed to build within a two mile radius from its current location. (For complete details see General Exhibit No. 10342.)

Motion was made by Member Greg W. Haws and seconded by Member Bill Colbert to approve the waiver to R277-470(14) for the Ogden Preparatory Academy as recommended by the State Charter School Board. Motion carried with Members Burningham, Cluff, Colbert,

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Haws, Jensen, Mackey, Moss, and Roberts voting in favor; Members Allen, Brown, Morrill and Sadler opposed; Member Gregory and Theurer absent.

### **Paradigm High School**

Paradigm High School opened in the 2006-2007 school year. Paradigm is currently in its first year of operation and serves grade 9-12, but has asked for an expansion to include grades 7 and 8. This would not increase the number of students eligible to attend the school, but would expand the grades served to 7-12. The State Charter School Board members in attendance at the July 19, 2007 SCSB meeting unanimously recommend this action to the Board. (For complete details see General Exhibit No.10343.)

Superintendent Harrington shared the test scores from Paradigm High School and recommended that the Board deny the request for expansion of Paradigm High School due to the low performance of the school population.

Motion was made by Member Dixie L. Allen and seconded by Member Richard Sadler to deny the expansion requested.

It was noted that there were only four State Charter School Board members present at the meeting where this recommendation came from. Three members were absent.

Discussion ensued relative to the specific courses of low performance.

Member Greg Haws called question on the motion. Motion carried.

Motion to deny approval carried with Members Allen, Brown, Burningham, Haws, Jensen, Mackey, Morrill, Roberts and Sadler voting in favor; Members Cluff, Colbert and Moss opposed; Members Gregory and Theurer absent.

### Adoption of Tier II Budget Request

The Board reviewed Tier II budget requests in an August study session. Individual board members then ranked their top 15 priorities. Associate Superintendent Patrick Ogden presented the priorities identified by the Board. (For complete details see General Exhibit No. 10344.)

Motion was made by Member Richard Sadler and seconded by Member Denis R. Morrill to accept the rankings as the Boards rankings.

Member Debra Roberts offered an amendment to the motion to Move 10 to 1. There being no second the amendment died.

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Motion to adopt the Tier II Budget Requests carried with Members Allen, Brown, Burningham, Cluff, Colbert, Haws, Jensen, Mackey, Morrill, Moss and Sadler voting in favor; Member Roberts opposed; Members Gregory and Theurer absent.

It was noted that Associate Superintendent Patrick Ogden will compile the Tiers I, II and III priorities.

General Consent Calendar

Motion was made by Member Dixie L. Allen and seconded by Member Denis R. Morrill to approve the General Consent Calendar as presented. Motion carried unanimously.

1. Minutes of Previous Meeting

Minutes of the Meeting of the State Board of Education held August 3, 2007.

2. Contracts

The following contracts were approved by the Board:

(A) Utah Parent Information and Training Center. \$85,000. 7/1/07-6/30/08. - Amend. - Fed.

The Utah Parent Information Center is the only center in the state which serves as a statewide clearinghouse for parents with disabled children. UPC provides information, referral, training and support to parents.

(B) University of Utah. \$139,791. 5/25/07-9/30/08. - Amend. - Fed.

Provide required evaluation services for the No Child Left Behind Title IB Reading First grant.

© Measured Progress. \$4,965,513. 7/1/07-6/30/10. - Fed.

To develop, design, print, distribute scan and score the Utah Basic Skills tests elementary and secondary school levels for use in Utah public schools. Additional services include Psychometric services and project management services.

(D) Art Access/VSA Utah. \$40,000. 7/1/07-6/30/08. - Fed.

To ensure integrated arts for students with disabilities. Train and recruit professional artists to provide direct service to students and provide inservice training to teachers, aides, parents and administrators.

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- (E) TriCounty Independent Living Center of Utah. \$20,000. 10/1/07-6/30/08 - Amend.

To provide Assistive Technology services to individuals with severe disabilities residing in Morgan, Davis and Weber counties.

- (F) Active Re-Entry. \$20,000. 10/01/07-6/30/08. - Amend. - Fed.

To increase Assistive Technology services to individuals with severe disabilities residing in the Eastern Utah Independent Living Rehabilitation District.

- (G) Utah Independent Living Center. \$55,000. 10/1/07-6/30/08. - Amend. - Fed.

To provide Assistive Technology services to individuals with severe disabilities residing in the Wasatch Front of Utah Independent Living Rehabilitation District.

- (H) OPTIONS for Independence. \$15,000. 10/1/07 - 6/30/08. - Amend. - Fed.

To provide Assistive Technology services to individuals with severe disabilities residing in the Northern Utah Independent Living Rehabilitation District.

- (I) Utah Statewide Independent Living Council. \$178,677. 10/1/07-9/30/08. - Amend. - Fed.

To provide resources to the Independent Living Program in accordance with Title VII Part B and the State Plan for Independent Living.

- (J) QWest Foundation. \$10,000. 7/25/07-6/30/08.

Grant to assist in costs of "Integrating Technology into Daily Curriculum" (ITC) program established by Educational Technology under the direction of Rick Gaisford and Doug Jones.

- (K) Utah Education Network. \$116,343. 7/1/07-6/30/08. RECEIVABLE

To provide funds to cover the salary, benefits, and program budgets for George Miller, Educational Specialist/EDNET.

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(L) Department of Administrative Services (DFCM). \$11,900. 7/1/07-6/30/08. - Amend. - Fed.

The operating and maintenance agreement between DFCM and the Utah State Office of Rehabilitation, Division of Rehabilitation, Brigham City Office, 695 South main Street, Suite 4, Brigham City, Utah.

(M) Access Utah Network. \$54,932. 7/1/07-6/30/08. - Amend. - Fed.

To provide funds and operating guidelines for a statewide information and referral program (ACCESS UTAH NETWORK) to meet information needs for persons with disabilities and their families in the state of Utah. The program will be administered by the Utah Governor's Council for People with Disabilities.

(N) National Association of State Boards of Education (NASBE). \$15,000. 7/1/07-6/30/08. - RECEIVABLE

NASBE has issued this grant in support of a year-long project to design and implement plans to improve adolescent literacy achievement.

(For complete details see General Exhibit No. 10345.)

3. Testing Procedures, R277-473

Currently, Board Rule R277-473 allows for a five week testing window that begins five weeks prior to the last Monday of the school year. R277-473 Testing Procedures is being amended to provide a six week window for two key reasons: (1) The current window makes it difficult for year round schools to test, clean and submit the answer documents, and receive and correct their CRT error reports by the deadline necessary in order to include their data in the warehouse and receive accurate scaled score CRT reports; and (2) The goal to reach 100% Computer Based Testing (CB) is challenging to many of the larger districts. A longer window is needed to allow more students to test using a CBT format. Many schools do not have a high enough ratio of computer per students and will need a longer testing window in order to allow all students to access their CRTs via CBT. Testing within the window will still remain a LEA decision. By increasing the testing window by one week, districts would have an additional five school days to assess students.

A second amendment to Board Rule R277-473 would require USOE developed training materials to be used for the required annual training for assessment administration. The training materials include a pamphlet, a PowerPoint and a Testing Ethics Policy Sign Off.

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Further amendments were made to the rule at the August 3, 2007 Board meeting and the Board approved R277-473 on second reading. There have been no substantive changes to the rule since that time. The Board approved R277-473, Testing Procedures on third and final reading. (For complete details see General Exhibit No. 10346.)

4. Online Testing, R277-402

HB 160 uses language which addresses both the funding and future of on-line testing. The current board rule does not reflect the language of this new law. The current Board rule R277-402, directs the creation and awarding of an RFP to support a single system for on-line testing. The Utah State Office of Education has met that directive and has in place a current contract to support on-line testing for the CRTs. During the past two years districts have increased their use of on-line testing for CRTs. The meeting the objectives of the 2007 legislation, the Utah State Office of Education proposed that 50% of the CRTs are tested on-line by 2008 and 100% by 2009.

The Utah State Office of Education also supports an on-line testing system for formative assessment. This system is known as the Utah Test Item Pool Service (UTIPS). UTIPS has provided a means for teachers and districts to create formative assessments with items aligned to the state core. USOE owns the items in the USOE item pool. These items are valuable and have been created by teachers and USOE staff collaborating during multiple workshops. The size of the item bank is unique to Utah, roughly 12,000 items for language arts, math and science. Other content areas are developing items to be incorporated into the USOE item pool. To protect the interests of Utah teachers' work in the development of the item bank and assessments, and to ensure that consistent, high-quality access to these items is available to all educators in Utah, a uniform system must be required for access.

Amendments were made to the rule at the August 3, 2007 Board meeting and the Board approved R277-402 on second reading. There have been no substantive changes to the rule since that time. The Board approved R277-402, Online Testing on third and final reading. (For complete details see General Exhibit No. 10347.)

5. Data Standards, R277-437

The Utah State Office of Education Information Technology Security Plan has recently been updated. Three major changes are included in this update.

1. All new USOE employees will be required to participate in computer security training prior to being assigned a network account and existing employees will attend a refresher course at least once every two years.
2. All USOE employees will be required to sign a Confidentiality Agreement and Acceptable Use Policy each year.

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3. Individuals wishing data access for research purposes must:
  - a. Comply with FERPA regulations
  - b. The research being done must have been commissioned by the Utah State Board of Education
  - c. Those not commissioned but desiring data must access the publicly available data on USOE Web sites or request the Researcher Data Disk. The Researcher Data Disk is a generic disk that will be prepared once a year.

Board Rule R277-484, Data Standards, Deadlines and Procedures has been amended to include the section for “Individuals wishing data access for research purposes.” The new section is R277-484.9 Disclosure of Data for Research.

The Board approved R277-484, Data Standards, Deadlines and Procedures at the August 3, 2007 Board meeting on second reading. There have been no substantive changes to the rule since that time. The Board approved R277-4437, Data Standards on third and final reading. (For complete details see General Exhibit No. 10348.)

#### 6. Administrative Rule Review

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

R277-108.	Annual Assurance of Compliance by Local School Boards.
R277-419.	Pupil Accounting.
R277-420.	Aiding Financially Distressed School Districts.
R277-422.	State Supported Voted Leeway, Local Board-Approved Leeway and Local Board Leeway for Reading Improvement Programs.
R277-423.	Delivery of Flow Through Money.
R277-424.	Indirect Costs for State Programs.
R277-426.	Definition of Private and Non-Profit Schools for Federal Program Services.
R277-454.	Construction Management of School Building Projects.
R277-509.	Certification of Student Teachers and Interns.
R277-522.	Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.
R277-733.	Adult Education Programs.

(For complete details see General Exhibit No. 10349.)

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7. USBE Annual Calendar

The Utah State Board of Education Annual Calendar for 2007 was provided for information to the Board. (For complete details see General Exhibit No. 10350.)

8. 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. 10351.)

9. Ratification of Employment

Bruce Hinckely was ratified as an Educational Specialist - Trust Lands.

Harold Chuck Foster was ratified as an Educational Specialist Student Achievement and School Success Division.

10. State Charter School Board Recommendations for Charter School Amendments

On July 19, 2007 the State Charter School Board unanimously approved to recommend to the State Board of Education and Lincoln Academy amend its charter to reorganize its governance structure to include the mandatory 25% of board are parent representatives and at least one is elected. Lincoln has been open since 2005.

On July 19, 2007 the State Charter School Board unanimously approved to recommend to the State Board of Education that C.S. Lewis Academy amend its charter to include K-12 as the curriculum delivery method for mathematics, among other subjects. C.S. Lewis will open its doors in August 2007.

On August 16, 2007 the State Charter School Board unanimously approved to recommend to the State Board of Education that Navigator Pointe amend its charter to reorganize its governance structure to include the mandatory 25% of board are parent representatives and at least one is elected. Navigator Pointe has been open since 2005.

The State Board of Education approved the amendments to the above charter schools.

11. 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. 10352.)

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12. Claims Report

The Claims Reports in the amount of \$47,073,178.00 for June 30, 2007 and in the amount of \$245,437,812.60 for July 31, 2007 were approved by the Board. (For complete details see General Exhibit No. 10353.)

Motion to adjourn Dixie Allen and seconded by Richard Moss. Meeting adjourned at 4:00 p.m.