

**UTAH STATE BOARD OF EDUCATION  
MINUTES**

April 8, 2011

The Charter, Communications, and Audit Standing Committees of the Board met April 7, 2011. All Board Members were present with the exception of Chair Debra Roberts, and Members Joel Coleman, Meghan Holbrook, and Isaiah Spencer.

Minutes of the meeting of the Utah State Board of Education held April 8, 2011, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 8:00 a.m. Vice Chair Dixie Allen presided.

Board Members present for all or part of the meeting:

Vice Chair Dixie L. Allen	Member Joel Coleman
Member Tim Beagley	Member David L. Crandall
Member Laurel O. Brown	Member Meghan Holbrook
Member Kim R. Burningham	Member Tamara Lowe
Member Keith M. Buswell	Member Carol A. Murphy
Member Daniel W. Campbell	Member James V. (Jim) Olsen
Member Janet A. Cannon	Member C. Mark Openshaw
Member Leslie B. Castle	Member Tami W. Pyfer
Member Craig E. Coleman	Member David L. Thomas

Board Members excused:

Chair Debra Roberts, Michael Jensen, Isaiah Spencer

Executive staff present:

Larry K. Shumway, Chief Executive Officer  
Don Uchida, USOR Executive Director  
Martell Menlove, USOE Deputy Superintendent  
Brenda Hales, USOE Associate Superintendent  
Todd Hauber, USOE Associate Superintendent  
Judy Park, USOE Associate Superintendent  
Lorraine Austin, Board Secretary

Others present:

Mark Skousen, Valley Charter	Ginger Rhode, Canyons District
Alan Shino, Aristotle Academy	Sue Carey, Utah PTA
Karl Ashliman, Vista Charter School	Kory Holdaway, UEA
Greg Larkin, Vista Charter School	Jay Blain, UEA
Kim Dohrer, OM, SAA, MMA	Steve Noyce, USDB
Nancy Linder, MMA	Laura Bunker, United Families Utah
Rachel Bradshaw, Odyssey Charter	Beth Braithwaite, MES
Pat Rusk, UEA	Lydia Nuttall, MES

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Gayleen Gandy, Granite School Board  
Jennie Earl, Morgan Empowered  
Pamela Smith, Morgan Empowered  
Michelle Tanner, USDB  
John Truesdell, Alpine District  
Patti Harrington, USBA  
Rebecca Pond, Davis School District  
Jim Shank, Juab School District  
Janis Dubno, Voice for Utah Children  
Elizabeth Ziegler, USOE

Ruth Dunn, Excelsior Academy  
Katie Gause, Excelsior Academy  
Katie Redmond, Excelsior Academy  
Shelly Taylor, Excelsior Academy  
Ann Gubler, Excelsior Academy  
SE Sonnenreich  
Amber Roderick-Landward, Canyons  
School District

Vice Chair Dixie Allen called the meeting to order at 8:00 a.m., and excused Chair Debra Roberts and Member Michael Jensen.

The Pledge of Allegiance was led by Member Keith Buswell.

### **Welcome**

Member Tamara Lowe reflected that she been in education some 60 years in different capacities. Each step has been a change in viewpoint about education in the state of Utah. She's found that all of this change in viewpoint has made her more sure of the most important part of education—that everything should be done for the individual student in the individual classroom in the individual school throughout the state. She then offered a prayer.

### **Swearing In of New Member**

Daniel W. Campbell was sworn in by Dr. Larry K. Shumway, State Superintendent of Public Instruction, as an appointed member of the Utah State Board of Education. Mr. Campbell represents the State Board of Regents.

### **Recognition of Outgoing Member**

Member Tamara Lowe was recognized for her work on the Board and given the traditional bell.

### **Public Participation and Comment**

Michelle Tanner, President, Utah Schools for the Deaf and the Blind Education Association - USDB teachers and staff have been asked to take an additional three days of

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furlough as a way of absorbing a \$700,000 deficit at the school. This is in addition to two planning days already furloughed by contract. An implementation of an additional three days furlough would be an impairment of USDB teacher contracts. By requiring a furlough of USDB staff and teachers, the educational services for deaf, blind, and deaf-blind students on IEPs will be limited. Without transportation, interpreters, deaf-blind interveners, and other services, these students will not be able to attend their district classes. The Association asked the Board to find a solution that more appropriately places the responsibility where it belongs.

Janis Dubno, Senior Policy Analyst, Voices for Utah Children - advocated allocating more funds [from the appropriation in H.B. 2 *Minimum School Program and Public Education Budget Amendments*] to Optional Extended-day Kindergarten (OEK) and the K-3 reading program. Voices for Utah Children has collected data on the impact of OEK, and outcomes are far greater than independent research on computer literacy programs. She asked that if the Board does allocate funds for an RFP, a smaller pilot project be considered.

Karl Ashliman, Vista Charter School Board - thanked the Charter Schools Committee for the motion it crafted in yesterday's committee meeting. He believes it is fair and can be implemented by Vista in a timely manner.

Gaylene Gandy, President, Granite School Board - Granite District is concerned about the possible decrease in funding for OEK and early reading programs. Ms. Gandy distributed a list of many technology programs presently being used in Granite, funded through a combination of sources, and indicated Granite would endorse continuation of those programs. Any decrease in OEK and early reading funding will cause a significant reduction in personnel.

Pamela Smith, Morgan County - recently returned from an annual Commission on the Status of Women, a UN Convention, where she was part of a coalition of organizations that embrace traditional family values. She indicated that in several countries, Planned Parenthood is having a negative effect, and encouraged the Board to steer away from the use of Planned Parenthood materials in schools.

Matt Killpack, School Psychologist, Alpine District - indicated that the "Growing Up Comes First" maturation program is not consistent with the Core requirements for health education, and expressed his concerns about the program. The Board's endorsement of the program has been removed from the Planned Parenthood home page, but still stands in the parent

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section. He asked that the Board's endorsement of the program be removed and that the program be eliminated from schools.

Laura Bunker, Director, United Families Utah - expressed her organization's concerns regarding the "Growing Up Comes First" maturation program developed by Planned Parenthood. She asked that the Board remove all endorsements for the program from the Planned Parenthood Website, CD, and pamphlets, and remove Planned Parenthood materials from the list of USOE recommended materials. She also asked that the Board allow maturation to be an optional part of the Core Curriculum and clearer parameters drawn in the Core on what would be appropriate for sex education and maturation.

Lydia Nuttall, Morgan County - expressed that there shouldn't be a one-size-fits-all mentality about maturation programs. She encouraged the Board to give the districts flexibility where these programs are concerned.

Dalane England, Eagle Forum - supports putting boundaries around the maturation program. Eagle Forum feels the program is more a sex education program than maturation program.

Erin Perkins, Eagle Forum - has six children that have been part of maturation programs in many different places. She was really disappointed in the program recently given to her daughter in Davis District. The permission form did not indicate it was a new program, and that it would address sex education. She asked that parents be given the opportunity to give input into what is taught.

Melinda LeCheminant, and daughter, Elizabeth - participated in the Davis District program referenced above, and are happy it has since been eliminated from the district.

[For complete details, see General Exhibit No. 11448.]

The Board recessed into standing committees. The Board reconvened at 11:15 a.m.

### **Achievement Spotlight**

Associate Superintendent Brenda Hales informed the Board of the two winners of the 2011 Prudential Spirit of Community Awards: Amy Matheson of Clearfield and Colton Lee of Provo. Colton was named by the organization as the top volunteer in Utah. The award is to honor students who have shown outstanding community service. Colton talked to the Board

about the importance of service in his life. Vice Chair Dixie Allen gave him a Certificate of Excellence from the Board.

### **Redevelopment Agency Procedures**

Superintendent Larry Shumway reviewed proposed Redevelopment Agency/Taxing Entity Committee (RDA/TEC) Procedures. The procedures anticipate that the Board will have input on every TEC vote, and facilitate the Board giving direction to staff in a methodical way.

Motion was made by Member Joel Coleman and seconded by Member Tami Pyfer that the Board approve the RDA/TEC Procedures. It was suggested the procedures be included in the Board Bylaws. Motion carried unanimously. [For complete details, see General Exhibit No. 11449.]

### **Executive Officer Report**

State Superintendent Larry K. Shumway reported on the following:

- Upon the request of USDB Superintendent Steven Noyce, Superintendent Shumway will grant a waiver to USDB to permit furloughs, to help alleviate a very difficult budget circumstance. Member Carol Murphy questioned what will happen to students receiving services outside of USDB if the USDB teachers are furloughed. Students would still need services in line with their IEPs. There is also an issue that USDB students being served in districts that have already taken furloughs, would lose additional days with a USDB furlough. Superintendent Shumway indicated he will look at alternatives for those students, including identifying essential services and seeing if provisions can be made for those services. Member Tami Pyfer asked how much of the deficit is due to districts not paying their USIMAC invoices. Superintendent Shumway responded that there is dispute about some of the charges, but even if paid, the financial issue won't be resolved.
- A letter sent from Superintendent Shumway to Senate President Michael Waddoups and House Speaker Rebecca Lockhart relative to the Utah College of Applied Technology (UCAT) was reviewed. The letter brings awareness to an issue for next year's budget that was created by the policy decision to not allow districts to count in their average daily membership those students who take courses at a UCAT institution during the school day.

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- A letter to superintendents and charter schools regarding inappropriate fees being charged was reviewed.
- A report on the USBA regional meetings was given. Member Lowe expressed appreciation for State Board participation in those meetings.
- The Superintendent Candidates Seminar concluded in March. The seminar was very positively received.
- USOE Instructional Technology Coordinator Kathleen Webb was congratulated for receiving the “Making it Happen” award, sponsored by International Society of Technology.
- The State Office of Education budget was reduced by \$700,000 in the recent legislative session, in addition to the multimillion dollar cuts of the last couple of years. The overall cuts during the economic downturn approaches 30 percent. Superintendent Shumway indicated he has reviewed the services provided by the USOE and has tried to identify those closest to the core of the Board’s mission. He feels the FIS system, which has provided a financial data software package for some of the districts for the last 20+ years, is not closely aligned with that mission. In addition, the program is at the end of its product life and would need a significant new investment to develop a product to take its place. Therefore, he is recommending that the office support the program through FY12, then discontinue the service.

[For complete details, see General Exhibit No. 11450.]

## **2011 Legislative Session**

Associate Superintendent Todd Hauber reviewed the *2011 Legislative General Session Fiscal Highlights*, including:

- State funding for Public Education increased by 21.5 percent, or \$50.3 million.
- Bottom line Public Education funding increased greater than the Governor’s budget by \$29.8 million.
- Enrollment growth of \$30.6 million; short \$26.6 million to fully fund with new money.
- Real value of WPU decreased by \$23 per WPU.

Mr. Hauber explained that for enrollment growth—the Board’s number one priority—to have been fully funded, \$56 million was needed; \$30 million was new money, but the additional

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\$26 million needed was funded from other sources within the Public Education budget. The WPU is now bifurcated between two program areas, and has dropped as a result of not having all new money to support the value of the WPU.

Member Burningham discussed S.B. 229 *Transportation Funding Revisions*, which Governor Herbert vetoed. It has tremendous implications for future financing of education.

Motion was made by Member Kim Burningham and seconded by Member Janet Cannon that the Board support Governor Herbert's veto of S.B. 299 *Transportation Funding Revisions*. Motion carried unanimously.

Deputy Superintendent Martell Menlove reviewed the USOE publication, *Public Education Summary: 2011 General Session of the Utah Legislature*. The following were discussed, among others.

- School Grading System, S.B. 59 - Members Allen and Brown represent the Board on a committee headed by Associate Superintendent Judy Park to determine how to implement this legislation.
- Statewide Online Education Program, S.B. 65 - Deputy Superintendent Menlove outlined some areas that will be impacted by this legislation: 1) students desiring to supplement their education by taking more credit hours than are available in a regular school day, will not be able to do so unless they have an SEOP stating they intend to graduate early; 2) students who enroll in online classes to free up time in their schedules for other classes, will not be able to do so; 3) students who want to take classes online that are of interest to them, but are not offered in their high schools, won't be able to do so unless they drop one of their high school classes; 4) students who need to enroll in additional classes to graduate won't be able to do so. With this legislation, there are some options and choices currently available to students through the free, public education system that will be eliminated. Students may enroll in private school to earn additional credits.

Member Murphy also pointed out that students who are out of class for medical reasons often use electronic courses for credit recovery, and that will no longer be available. The Electronic High School will be available for the 2011-2012 school year. Superintendent Shumway expressed his support of online course work in general, and indicated he will work with USOE staff and the legislature, with the Board's input, to bring forward a set of proposals about how to provide greater online opportunities.

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- Education Policy Amendments, S.B. 217 - The bill requires districts participating in the Beverley Taylor Sorenson Arts Program to assume responsibility for ten percent of the program this year; the amount will escalate each of the next five years, until districts are responsible for a 50 percent match. The USOE is intending to equalize the grants for 2011-2012 to \$66,000 per LEA, and take the ten percent from that amount, decreasing it each year. There is some concern that as the responsibility becomes greater, districts will not be able to afford the program.
- Governance of Public and Higher Education, S.J.R. 9 - Member David Thomas discussed that one of the things that convinced some legislators to vote in favor of S.J.R.9, was information using data and criteria from Education Week showing that states with the governor in charge of education reach higher achievement levels. Member Thomas reported that his own research comparing education outputs shows that states with Utah's governance system generally have higher levels of college and career readiness, higher graduation rates, and better test results. Member Mark Openshaw also indicated that some legislators felt the Governor would be better able to obtain funding for education than the Board. The Board discussed the need to inform the legislature of the advantages of the current governance model.

[For complete details, see General Exhibit No. 11451.]

### **Reduction of Instructional Days for the 2011-2012 School Year**

In April 2009 and April 2010, the State Board took action to provide LEAs additional flexibility in school calendars, due to difficult financial circumstances. For the 2010-2011 school year, LEAs were allowed to reduce the instructional days by up to five days (a minimum of 175), with certain stipulations.

Motion was made by Member Kim Burningham and seconded by Member Mark Openshaw that the Board allow districts to reduce instructional days by one-half of their reduction of last year, with a maximum of two days, with an additional reduction of two days allowed for professional development for the Common Core. Superintendent Shumway informed the Board that the Utah School Superintendents Association is supportive of this waiver. It was clarified that districts not reducing days last year will not be allowed to make reductions beyond the waiver.

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Motion failed, with Members Murphy, Cannon, Crandall, Thomas, C. Coleman, Buswell, and Castle opposed, and Members Allen, Brown, Burningham, Openshaw, and Pyfer in favor; Member Joel Coleman absent.

Motion was made by Member Carol Murphy and seconded by Member Laurel Brown that school districts be allowed a waiver of up to two instructional days if those days are used for training to implement the Utah Common Core. Motion carried; Member J. Coleman absent.

### **Resolution Honoring the Sorenson Legacy Foundation**

Over many years, the James L. Sorenson family has supported public and higher education in Utah, often through significant financial contributions. In the recently concluded legislative session, the legislature passed S.C.R. 6 *Concurrent Resolution Honoring the Sorenson Legacy Foundation*. One of the bill's sponsors, Senator Curtis Bramble, met with the State Board of Education at its legislative meeting on February 17, 2011, and the Board voted to support S.C.R. 6. Senator Bramble requested that the Board join the legislature in recognizing the Sorenson Foundation with a similar resolution. A resolution was presented by Superintendent Larry Shumway.

Motion was made by Member Janet Cannon and seconded by Member Keith Buswell to pass a resolution honoring the Beverley Taylor Sorenson family and the Sorenson Legacy Foundation. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11452.]

### **Health Curriculum**

\_\_\_\_\_ Associate Superintendent Brenda Hales presented information on the Health Curriculum, in particular how it relates to sexuality instruction. The study of health and issues related to sexuality are mandated in state law and State Board Rule R277-474. The Secondary Health Core was last revised in August 2009, and at that time there was extensive outreach. LEAs are required to have a health committee in place, which is allowed to make the instruction more restrictive. Sex education is an opt in, rather than opt out, program, and LEAs are surveyed every year to determine whether they are following the law.

The Elementary Health Core is not mandated or guided by law or policy. Aspects of the Elementary Core include maturation and HIV/AIDS sections. Ms. Hales recognized that the

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elementary core was last revised in 1997, and is in need of an update. [For complete details, see General Exhibit No. 11453.]

## **Standing Committee Reports**

### DATA, ASSESSMENT, AND ACCOUNTABILITY COMMITTEE

Committee Chair David Thomas reported on the following items from the Data, Assessment, and Accountability Committee.

#### Classroom Supplies Appropriation, Distribution of Funds, R277-459-3

R277-459-3 was amended to remove unnecessary language in determining teacher counts for distribution of funds for classroom supplies.

Committee approved R277-459-3 *Classroom Supplies Appropriation, Distribution of Funds* on first reading, and moved that the Board approve the rule on second reading. Motion carried; member J. Coleman absent. [For complete details, see General Exhibit No. 11454.]

#### Charter Schools School Building Subaccount, R277-480

R277-480 was amended to provide changes consistent with H.B. 83 *Charter School Revolving Account*, 2011 Legislative Session. The new legislation clearly separates the Charter School Building Subaccount from the School Building Subaccount and creates a new Charter School Revolving Account to assist charter schools with loans for building construction and renovation needs. Loans may also be used for expenses related to start up of new charter schools or expansion of existing charter schools. The title of the rule, definitions, and language throughout were changed to reflect the changes in H.B. 83. The new rule title will be *Charter School Revolving Account*.

The Committee approved the rule on first reading, with an additional change on line 156 to add the word “staff,” after Board, to read, “The Board staff and State Charter Board staff, shall review recommendations from the Charter School Revolving Account Committee.”

Motion from Committee that the Board approve R277-480 *Charter Schools School Building Subaccount*, with the Committee amendment, on second reading. Motion carried; member J. Coleman absent. [For complete details, see General Exhibit No. 11455.]

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Data Standards, R277-484

In order to keep pace with the changing demands for more timely, complete and accurate student, school and educator data, the USOE and the Utah public education LEAs are implementing a new data collection and transport system named Utah Transcript and Record Exchange (UTREx). In doing so, R2770-484 *Data Standards* needs to be amended to align with the new capabilities of UTREx while allowing for a smooth, but timely, transition. Associate Superintendent Judy Park clarified that Utah's current system is at the forefront of what other states are using in the country, and this change will allow Utah to continue that trend into the future.

The Committee approved R277-484 *Data Standards* on first reading, and moved that the Board approve the rule on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11456.]

Requirements for Assessments for Assessment Pilot Programs, R277-405

A new Board Rule, R277-405 has been created to define the K-12 Assessment Pilot and the High School Assessment Pilot program. The rule puts the two assessment pilot programs into the same rule.

Committee approved R277-405 *Requirements for Assessments for Assessment Pilot Programs* on first reading and moved that the Board approve the rule on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11457.]

Requirements for Assessments of Student Achievement, R277-404

The 2010 and 2011 Utah Legislature passed legislation which impacted the Utah comprehensive assessment system. Board rule regarding the Utah comprehensive assessment system are located in multiple rules. A new Board Rule, R277-404, redefines the Utah Assessment System including required assessments, LEA responsibilities and USOE responsibilities, so that it complies with Utah Code and places the rule describing the Utah comprehensive assessment system under one rule.

Committee approved R277-404 *Requirements for Assessments of Student Achievement* on first reading and moved that the Board approve the rule on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11458.]

Student Proficiency and Notice to Parents, R277-403

During the 2011 Legislative Session, the legislature passed S.B. 38 *K-3 Reading Amendments* and H.B.302 1<sup>st</sup> Substitute *Reading Program Amendments*, that changed the K-3 Reading Assessment Program. Rule R277-403 implements those two bills, specifically to allow transparency for parents, and allows the State Board to put out an RFP for a diagnostic assessment system for K-3 reading.

A concern was raised in the Committee by Canyons School District that they chose a different vendor for the assessment, and will now have to switch their diagnostic system to a new vendor in which they don't have confidence. To address that concern, the Committee approved R277-403 on first reading with an amendment on line 58 to read: "One assessment *or its equivalent* shall be determined by the USOE." The change would allow some flexibility that if a district can show that a different assessment than the one chosen by USOE is comparable, they will be able to use that assessment.

Motion from Committee that the Board approve R277-403 *K-3 Reading Amendments*, as amended by the Committee, on second reading.

Associate Superintendent Judy Park pointed out that in R277-404, just approved, line 79 states, "one benchmark reading assessment." If the suggested amendment is made in R277-403, a change would also be needed in R277-404 to make it consistent. Superintendent Shumway also mentioned that H.B. 302 has a section with an enacting date of July 1, 2012 that requires a single benchmark assessment.

Associate Superintendent Brenda Hales opined that the problem with allowing a comparable assessment, is that the assessment could be close, and could be written by the same developers, but isn't the same. In order to have true comparability, one measure needs to be used. Districts do many assessments for reading, and the rule is directing that only one assessment be the same for all LEAs.

Substitute motion made by Laurel Brown and seconded by Leslie Castle that the Board approve R277-403 without the committee amendment.

Discussion followed regarding the purpose of benchmark assessments, district investment in assessment systems, fulfilling the purpose of the law, comparing gains, resources involved in determining comparability of assessments, and the importance of flexibility. The Board was

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informed that the assessment currently chosen by the USOE, the DIBELS, costs the districts nothing.

Substitute motion carried with Members Allen, Brown, Buswell, Cannon, Castle, Murphy, Openshaw, and Pyfer in favor, and Members Burningham, C. Coleman, Crandall, and Thomas opposed; Member J. Coleman absent. [For complete details, see General Exhibit No. 11459.]

#### K-12 Assessment Pilot and High School Assessment Pilot Updates

The U.S. Department of Education has granted the Utah State Office of Education permission to use the NWEA adaptive tests in place of the Utah Criterion-Referenced Tests (CRTs) as a local assessment option. The NWEA adaptive tests are the key component of the current K-12 Assessment Pilot. In 2010, legislation eliminated the Utah Basic Skills Competency Test (UBSCT) for two years, and created an opportunity for districts and charter schools to participate in a high school pilot for alternative assessments beginning in the 2010-2011 school year. Self-selected pilot schools had the opportunity to choose to administer the ACT in 11<sup>th</sup> grade and/or an adaptive tests of basic skills in an effort to improve student career and college readiness. The USOE utilized the UBSCT cost savings to fund the pilot.

USOE staff presented a review of the K-12 Assessment Pilot and High School Assessment Pilot Programs to the Committee. The High School Assessment program has become very popular, and more schools are interested in participating. Funding is not available to add more schools. [For complete details, see General Exhibit No. 11460.]

#### Assessment Bills

Proposals for three pieces of legislation were distributed: Adaptive Testing, Online Testing, and College and Career Readiness Assessments. The Committee is trying to accomplish the implementation of a new assessment program that the Board has been discussing. The College and Career Readiness Assessments bill would replace the UBSCT system with the Explore/Plan/ACT system statewide, with a cost of \$2 million ongoing. Differentiated diplomas will also need to be determined by rule.

The Adaptive Testing bill would change CRTs to computer adaptive testing with a target date of the 2014-15 school year. The bill would include an additional \$5.3 million new funding.

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The Online Testing bill is for a matching technology program. The bill proposes \$15 million in one-time money and \$5 million ongoing matching funds for technology to support computer adaptive testing. This will not fully fund what is needed in technology.

The Committee voted in favor of moving forward with the bills. It was clarified by Vice Chair Allen that Board Leadership has directed committees to look at possible legislation that would move the Promises to Keep strategic plan forward. The bills will be discussed before the full Board in its May meeting. [For complete details, see General Exhibit No. 11461.]

#### INSTRUCTION, SUPPORT, AND TECHNOLOGY COMMITTEE

Committee Chair Janet Cannon reported on the following items from the Instruction, Support, and Technology Committee.

#### Educator Licensing Renewal, Time Lines, and Required Fingerprint Background Checks, R277-501

R277-501-9 is a new section in R277-501 *Educator Licensing Renewal, Time Lines, and Required Fingerprint Background Checks*, that provides language to sunset R277-501 in its entirety beginning July 1, 2012. R277-500 will replace R277-501 on July 1, 2012.

The Committee passed the rule on first reading and moved that the Board approve R277-501 *Educator Licensing Renewal, Time Lines, and Required Fingerprint Background Checks* on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11462.]

#### Educator Licensing Renewal, Time Lines, and Required Fingerprint Background Checks, R277-500

R277-500 contains language and procedures that reflect practices and renewal procedures that will become effective July 1, 2012. Changes include reorganization of the rule to prioritize content for educator development and growth; recognition of effective job-embedded professional development in R277-501-5(D); and formalization of an ongoing professional growth plan required of all licensed educators. It also includes an ethics review.

The Committee approved the rule on first reading, with amendments in Section 5, *Categories of Acceptable Activities for License Renewal*, as outlined on an amendments sheet

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distributed. Motion from Committee that the Board approve R277-500 *Educator Licensing Renewal, Time Lines, and Required Fingerprint Background Checks*, as amended, on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11463.]

#### School Community Councils, R277-491

Amendments to R277-491 were presented to reflect changes in statute made in the 2011 Legislative Session, as well as current practice. Representative Kraig Powell joined the committee for the discussion. An amendment was made by the Committee, in accordance to clarification from Representative Powell, to Section 3H to read, "Elections shall be held no later than 30 days after the first day of school." Motion from Committee that the Board approve R277-491 *School Community Councils*, as amended, on second reading.

Member Burningham spoke against the rule, because of the section that prohibits a parent who is a licensed educator from being a School Community Council member. He feels the law is unconstitutional. Member Crandall opposed the amendment, stating that it will be difficult for the Board to enforce the rule if it follows the ambiguity in the law. He expressed that the rule seems to be written only for spring elections, and doesn't include fall elections.

Substitute motion was made by Member David Crandall and seconded by Member David Thomas that the Board interpret the law to mean that School Community Council elections can be held either in the spring or the fall, and that the rule be sent back to USOE staff to ensure that the rule supports that interpretation.

Superintendent Shumway expressed his opinion that the law is intended for fall elections only. Member Crandall indicated there are several other areas of the rule he would like the Board to address and asked that the rule to go back to committee.

Motion carried with Members Allen, Brown, Burningham, Castle, C. Coleman, Crandall, Openshaw, and Thomas in favor, and Members Buswell, Cannon, Murphy, and Pyfer opposed. Member J. Coleman absent. [For complete details, see General Exhibit No. 11464.]

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Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program, R277-477

The Committee reviewed updates to R277-477 to reflect changes made in statute in the 2011 Legislative Session, as well as current practice. The Committee amended the rule as outlined on distributed sheet, and approved the rule on first reading.

Motion from Committee that the Board approve R277-477 *Distribution of Funds from the Interest and Dividend Account (School LAND Trust Funds) and Administration of the School LAND Trust Program*, as amended, on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11465.]

Public Education Regional Service Centers, R277-706

R277-706 is a new rule to provide definitions and procedures for LEAs to enter into interlocal agreements to form regional service centers eligible for funding under H.B. 92 *Public Education Regional Service Centers*, 2011 Legislative Session. Committee amended the rule as outlined on distributed sheet, and approved on first reading.

Motion from Committee that the Board approve R277-706 *Public Education Regional Service Centers*, as amended, on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11466.]

Standards for School Districts, School and Charter School Discipline Plans, R277-609

Committee approved on first reading R277-609, which is amended to provide new or amended definitions and language to ensure that the Board rule is consistent with and responsive to S.B. 304 *Preventing Bullying and Hazing in Elementary and Secondary Schools*, 2011 Legislative Session.

Motion from Committee that the Board approve R277-609 *Standards for School Districts, School and Charter School Discipline Plans* on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11467.]

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School District and Charter School Bullying and Hazing Policies and Training, R277-613

R277-613 is amended to provide new or amended definitions and language to ensure that the Board rule is consistent with and responsive to SB 304, 2011 Legislative Session.

Committee approved on first reading, with additional amendments outlined on distributed sheet.

Motion from Committee that the Board approve R277-613 *School District and Charter School Bullying and Hazing Policies and Training*, as amended, on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11468.]

Required Policies for Electronic Devices in Public Schools, R277-495

Committee approved on first reading R277-495, which is amended to provide language that references R277-609 and R277-613. These rules include new language from S.B. 304, 2011 Legislative Session.

Motion from Committee that the Board approve R277-495 *Required Policies for Electronic Devices in Public Schools* on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11469.]

STANDARDS, CURRICULUM, AND STUDENT SUCCESS COMMITTEE

Committee Chair Laurel Brown reported on the following items from the Standards, Curriculum, and Student Success Committee.

Patriotic Education R277-475

R277-475 is amended to reflect changes as a result of H.B. 269 1<sup>st</sup> Substitute *Commission on Civic and Character Education*, H.B. 327 1<sup>st</sup> Substitute *Public Education Annual Report Amendments*, and H.B. 220 *Civics Education Amendments*. Information on Social Studies and patriotic, civic, and character education was distributed. Further changes in the rule will be needed, but the Committee asked the Board to accept what is in place at this point in order to begin implementation of the new law.

Committee approved R277-475 *Patriotic Education* on first reading, and moved that the Board approve the rule on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11470.]

Concurrent Enrollment, R277-713

R277- 713 is amended to reflect changes as a result of H.B. 288 *Concurrent Enrollment Transcripts*, 2011 Legislative Session.

Committee approved the rule on first reading and moved that the Board approve R277-713 *Concurrent Enrollment* on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11471.]

Beverley Taylor Sorenson Elementary Arts Learning Program, R277-490

R277-490 is amended to reflect changes as a result of S.B. 217 *Education Policy Amendments*, 2011 Legislative Session.

Committee approved on first reading and moved that the Board approve R277-490 *Beverley Taylor Sorenson Elementary Arts Learning Program* on second reading. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11472.]

K-3 Literacy and Early Intervention Legislative Requirements

The 2011 Utah Legislature passed H.B. 2 2<sup>nd</sup> Substitute *Minimum School Program and Public Education Budget Amendments*, which contains intent language specifying that the State Board of Education may use up to \$7.5 million of the \$15 million appropriated for K-3 Reading Improvement Program, and up to \$2.5 million of the \$7.5 million Early Intervention allocation for software programs to be determined through an RFP process. The Early Intervention Program replaces the Optional Extended-Day Kindergarten Program. A white paper further explaining the requirements was distributed to the Board.

Motion passed in committee that the USOE will put forth an RFP for technology as outlined in the law, that there will be no money attached to the RFP, that the full appropriation for K-3 Reading Improvement and Early Intervention will be distributed to LEAs, and that the decision on whether to purchase technology specified by the RFP will be left to LEAs.

Deputy Superintendent Martell Menlove was asked to elaborate on discussions that have been held regarding the requirements of the bill. He stated that, in his conversations with legislators, there is an expectation that districts will expend a certain amount of this money for additional technology. He suggested the Board could exercise general control by taking a relatively small piece of the money and controlling what happens with the money in order to

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garner extremely valuable data about which programs and technologies are the best.

Member Castle responded that there is good data to support that what is already in place is successful. She questioned whether taking money away from these successful programs to see if something else works is the direction in which the Board should go.

Member Thomas expressed his feeling that an RFP without money attached would have no meaning. Member Craig Coleman indicated that it was a difficult decision for the committee, because the law is not clear that money must be spent—only that RFPs must be issued. The committee struggled to make sure intent was followed while programs that are working are not harmed, and that flexibility be maintained at the local level. Member Murphy suggested a compromise position of holding back some of the money for the RFP and look for a few districts to do some targeted implementation. Member Allen indicated that if any of this money is held back, those programs in some rural districts will be destroyed.

Member David Crandall called the question. Motion carried, with Members Murphy and Thomas opposed.

Original motion carried with Members Allen, Brown, Burningham, Buswell, Cannon, Castle, C. Coleman, Crandall, Openshaw and Pyfer in favor, and Members Murphy and Thomas opposed; member J. Coleman absent. [For complete details, see General Exhibit No. 11473.]

### Maturation Programs

The Committee was given an overview by USOE staff of the law on maturation programs and the maturation programs that are approved by the USOE.

Motion from Committee that the *Growing Up Comes First* curriculum be removed from the instructional materials list, and that staff be directed to make revisions to the Responsible Healthy Lifestyles curriculum, grades 3 through 6, and change the Board rule accordingly. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11474.]

### Common Core Curriculum and Assessment Update

Information on High Ability Students and the Secondary Mathematics Common Core was distributed. [For complete details, see General Exhibit No. 11475.]

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COMMUNICATIONS COMMITTEE

The report from the Communications Committee was deferred to the Board's May 2011 meeting.

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CHARTER SCHOOLS COMMITTEE

Committee Chair Carol Murphy reported on the following from the Charter Schools Committee.

Aristotle Academy - New Charter

The State Charter School Board recommends that Aristotle Academy be approved to open in the 2012-2013 school year. The school will appeal to Title I students, but will be open to all.

Motion from Committee that the Board approve the application of Aristotle Academy. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11476.]

Valley Academy - New Charter

The State Charter School Board recommends that Valley Academy be approved to open in the 2012-2013 school year. There were reservations about needed financial levels to support the programs.

Motion from Committee that the Board approve the application of Valley Academy Charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11477.]

American Preparatory Academy Amendment

The State Charter School Board recommends that American Preparatory Academy be granted an amendment to its charter to add satellite #3 in Canyons School District in the 2012-2013 school year. American Preparatory Academy opened in fall 2003. The school has found land nearby the present Draper campus. Both the Charter Board and the Charter Committee questioned the cost of the management contract.

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Motion from Committee that the Board approve the amendment of American Preparatory Academy's charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11478.]

#### Excelsior Academy Amendment

The State Charter School Board recommends that Excelsior Academy be granted an amendment to its charter to add grade 9, along with 27 additional students beginning in the 2011-2012 school year, which requires a waiver from R277-470-13 time line. Additionally, the school requests multiple changes to language throughout the charter. Excelsior Academy opened in fall 2009.

Motion from Committee that the Board approve the amendments to Excelsior Academy's charter. Motion carried; J. Coleman absent. [For complete details, see General Exhibit No. 11479.]

#### Freedom Academy Amendment

The State Charter School Board recommends that Freedom Academy be granted an amendment to its charter to add 25 students (700 students total) for the 2011-2012 school year only, and be granted a waiver of time line in R277-470-13. Freedom Academy opened in fall 2003.

Motion from Committee that the Board approve the amendment to Freedom Academy's charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11480.]

#### Maria Montessori Academy Amendment Request

The State Charter School Board recommends that Maria Montessori Academy be granted an amendment to its charter to add 40 students (490 students total) beginning in the 2011-2012 school year, and be granted a waiver from R277-470-13 time line. Additionally, Maria Montessori Academy requests an amendment to modify its governance structure by requiring that 25 percent of the board be parents of students attending the school, that the board will appoint any board vacancies via applications, and that board members will have four-year terms. Maria Montessori Academy opened in fall 2010.

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Motion from Committee that the Board approve amendments to Maria Montessori Academy's charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11481.]

#### Odyssey Charter School Amendment Request

The State Charter School Board recommends that Odyssey Charter School be granted an amendment to its charter to drop grades 7-8 beginning in the 2011-2012 school year and modify its governance structure to add two additional board members (seven members total). Odyssey Charter School opened in fall 2005.

Motion from Committee that the Board approve the amendments to Odyssey Charter School's charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11482.]

#### Oquirrh Mountain Charter School Amendment Request

The State Charter School Board recommends that Oquirrh Mountain Charter School be granted an amendment to its charter's governance structure to require that 25 percent of the board be parents of students attending the school, and that the terms and conditions of employment be changed to clarify the board's role in that process. Oquirrh Mountain Charter School opened in fall 2009.

Member Cannon asked what will happen to funding when grades are dropped. It was clarified that the number of students is not changing.

Motion from Committee that the Board approve the amendments to Oquirrh Mountain Charter School's charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11483.]

#### Syracuse Arts Academy Amendment

The State Charter School Board recommends that Syracuse Arts Academy be granted an amendment to its charter to change employee evaluation procedures and frequency, and remove parental voting rights regarding changes in administrative structure, policies, or curriculum. Syracuse Arts Academy opened in fall 2006.

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Motion from Committee that the Board approve amendments to Syracuse Arts Academy's charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11484.]

#### Venture Academy Amendment

The State Charter School Board recommends that Venture Academy be granted an amendment to its charter to add grades 10-12 and 350 additional students (850 student total), beginning in the 2012-2013 school year, and that the time line in R277-470-13 be waived. Venture Academy opened in fall 2008. The change will help the school move forward with the purchase of some adjacent land. The Committee had some questions about the ACT requirements and the appropriateness for all students, and the fee waiver requirements involved with its implementation.

Motion from Committee to approve amendments to Venture Academy's charter. Motion carried; Member J. Coleman absent. [For complete details, see General Exhibit No. 11485.]

#### Vista at Entrada Amendment

The State Charter School Board recommends that Vista at Entrada be granted an amendment to its charter including changes to: 1) Board Bylaws; 2) school name to do business as "Vista School;" 3) curriculum and instructional method; 4) remove the requirement to teach all students foreign language; 5) terms and conditions of employment; 6) Special Education Policies and Procedures to ensure compliance; and 7) insurance. Vista at Entrada opened in fall 2009.

The Charter School Committee did not approve the requested amendments. Committee members agreed that the charter school is not operating under an understandable charter document. Up to this point, there has not been an election of the governing board for the school. The Committee passed recommendations for the school on a split vote.

Motion from Committee that the Board approve the following recommendations for Vista at Entrada Charter School.

- The Committee accepts the opinion of USOE staff attorney, Carol Lear, and moves forward with the presumption that the makeup of the Vista Charter Board is valid at this time.

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- The Committee asks the State Charter School Board to direct the Vista Charter School Board to hold an election for board members prior to May 31, 2011. The election would be conducted under the current approved charter language.
- The Committee asks the State Charter School Board to direct the current Vista board to hold any decisions until the election described above could be held, which would bring the board into compliance with its current charter.
- The Committee denies the request as presented.

Member Tim Beagley asked that for the second point where the Charter Board is directed to tell the Vista Board to hold elections at a certain time, the language be changed to ask the Charter Board to direct Vista to follow its charter. It may not be within the State Charter Board's purview to direct Vista to do something that specifically. He also questioned whether the third point is within the purview of the State Charter Board. Member Murphy gave further information that Charter Schools Director Marlies Burns is prepared to move ahead with a process where Vista could quickly come into compliance.

Member Crandall responded that there is a process laid out for dealing with charters that are not in compliance, and that is the responsibility of the State Charter School Board. It is up to the chartering entity to give a school notice that it needs to come into compliance. He feels the motion as it was presented in the committee gets the Board into a situation where it is trying to enforce a contract to which it is not a party. Member Murphy agreed, and responded that the language is not directing, but is requesting, that the State Charter Board direct the school to hold an election. USOE Charter Schools Director Marlies Burns reported that the first step has been taken as far as notice prior to termination if the charter chooses not to come into compliance.

Motion carried, with Members Allen, Brown, Burningham, Buswell, Cannon, Castle, Murphy, and Pyfer in favor, and Members C. Coleman, Crandall, Openshaw, and Thomas opposed; Member J. Coleman absent. [For complete details, see General Exhibit No. 11486.]

### **Executive Session**

No Executive Session was held.

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## General Consent Calendar

Motion was made by Member Janet Cannon and seconded by Member Mark Openshaw that the Board approve the General Consent Calendar as presented. Motion carried; Member J. Coleman absent.

1. Minutes of Previous Meeting

Minutes of the meeting of the State Board of Education held March 4, 2011 were approved as written.

2. Contracts

The Board approved the following contracts.

A. Questar Assessment, Inc. \$617,368, 2/7/2011 to 2/28/2012. Amend. #5

To produce grade span 1-2 test booklets; score constructed response items; develop achievement level descriptors; import WIDA standards into item bank; and extend for one year as allows by original contract.

B. NCS Pearson, Inc. \$982,000. 12/1/2010 to 11/30/2011

SSID extension and electronic transcript service.

C. HMB Information System Developers. \$457,570. 9/30/2009 to 6/30/2012

Continue to enhance the Utah Consolidated Application (UCA) with Utah specific programming that will allow LEAs and the USOE to interface more efficiently and clearly, as well as provide electronic processing of reimbursement requests for grants within UCA.

D. Educational Research & Training Corp. \$119,000. 2/18/11 to 2/17/2012  
Amend. #1

To provide online Migrant Achievement and Performance System (MAPS)/State Migrant Education Program Comprehensive Needs Assessment/State Service Delivery Plan/Migrant Education Program Evaluation/Prospective Re-interview.

E. College Board Examination Board. \$140,391. 3/16/2011 to 3/15/2012 Amend. #2

To pay advanced placement test registration fees for low income students.

F. C-Sync. \$198,000. 2/15/2011 to 12/31/2013

To provide online assessment tool for Student Strengths Inventory.

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[For complete details, see General Exhibit No. 11487.]

3. Educator Licensing Requests for Temporary Authorizations

The Board approved Requests for Temporary Authorizations as submitted by the school districts. [For complete details, see General Exhibit No. 11488.]

4. School Fees R277-407

R277-407 was amended to provide new and revised language to clarify student eligibility for fee waivers and student records issues, and to make the language in the rule consistent with state law. The Board approved the amendments to R277-407 on second reading in its March 4, 2011 meeting, and there were no substantive changes since that time. The Board approved R277-407 *School Fees* on third and final reading. [For complete details, see General Exhibit No. 11489.]

5. Monthly Budget Report

The Monthly Budget Report provided 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. 11490.]

6. Ratification

Dr. Linda K. Oda was ratified as an Educational Coordinator in the ESEA and Special Programs Section.

7. 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. 11491.]

8. Claims Report

The Board approved the Claims Report for February 2011 in the amount of \$315,606,960.40. [For complete details, see General Exhibit No. 11492.]

Motion was made by Member Carol Murphy and seconded by Member Laurel Brown that the meeting adjourn.

The meeting adjourned at 4:58 p.m.

Lorraine Austin, Secretary to the Board  
Approved May 5, 2011