

MINUTES

April 2, 2004

Minutes of the meeting of the State Board of Education held April 2, 2004, at the Utah State Office of Education, Salt Lake City, Utah. Meeting commenced at 8:10 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 R. Michael Anderson
Member Linnea S. Barney
Member Tim Beagley
Member Laurel Brown
Member Edward A. Dalton
Member Greg W. Haws
Member David L. Moss
Member John C. Pingree
Member Jed H. Pitcher
Member Joyce W. Richards
Member Debra G. Roberts
Member Sara V. Sinclair
Member Gary C. Swensen
Member Teresa L. Theurer

Member Dixie L. Allen was excused and Member John Pingree was excused for the first portion of the meeting.

Also present were:

Executive Officer Patrick Ogden
Associate Superintendent Patti Harrington
Associate Superintendent Raymond Timothy
Executive Director, USOR, Blaine Petersen
Public Affairs Director Mark Peterson
Board Secretary Twila B. Affleck

Members of the Press:

Jennifer Toomer-Cook, Deseret Morning News
Ronnie Lynn, Salt Lake Tribune
Tanna Barry, Standard Examiner
Charles Hausman, Salt Lake City School District
Lisa Stamps, Citizen
Ann Fielden, Harcaurt
David Lifferth, Citizen
Vic Deauvono, Citizen
Nola Lodge-Hurford, Coalition of Minorities Advisory Committee
Chet D. Linton, Citizen
JoAnn Neilson, Utah PTA

Mark Cluff, Citizen
David Adamic, Citizen
Martine Smith, Citizen
Kathleen Chronister, Davis School District
Mark E. Towner, Citizen

Utah State Office of Education Staff:

Carolee Gunn, Student Achievement & School Success
Carol Lear, Law Legislation & Education Services
Cathy Dudley, Data & Business Services
Nancy Giraldo, Law Legislation & Education Services
LesLee Ardelean, Law Legislation & Education Services
Karl Wilson, Student Achievement & School Success
Charlotte Jepson, Law Legislation & Education Services
Jeanette Misaka, Law Legislation & Education Services
Richard Gomez, Law Legislation & Education Services

Board Chairman Kim R. Burningham lead the Board in the Pledge of Allegiance.

Board Member Tim Beagley offered the Reverence.

Board Secretary Twila B. Affleck recorded the minutes.

Installation of New Board Member

Chairman Kim R. Burningham shared some background information on the newly appointed member of the State Board of Education Gary C. Swensen. He noted that Mr. Swensen will fill the unexpired term of former Member Denis R. Morrill, in District 9. He then issued the Oath of Office to Member Gary C. Swensen.

Mr. Swensen commented that it is a pleasure to be serving on the Board. He noted that he is a product of the educational system in Utah. When he first ran for the Granite Board of Education, he had four children in the public school system. He now has grandchildren in the Utah public school system. His father taught him to return service back to his community. He looks forward to learning from the Board.

Other Issues

Chairman Burningham noted that HCR 11, Resolution on Higher Education Remedial Classes requests that the State Board of Education and the Board of Regents collaborate to better articulate the K-12 graduate, entrance, and completion requirements of higher education institutions and to respond relative to these issues. In that regard, he asked Members Linnea Barney, Jed Pitcher and Sara Sinclair to meet with him at the beginning of lunch to discuss how to proceed.

The Board recessed into Committee Meetings at 8:20 a.m.

The Board reconvened at 10:30 a.m.

Vice Chairman Janet Cannon introduced State Board Candidates Vic Deauvono, David Lifferth, David Adamic, Chet Linton, and Mark Cluff.

Accountability Proposal: A Means of Addressing U-PASS, NCLB, and Performance Plus

Louise Moulding, Director of Assessment reported that U-PASS legislation called for a method by which schools not achieving state-established acceptable levels of student performance would be identified and assisted. Similar language is in Senate Bill 154 (2003) and No Child Left Behind. Further, Performance Plus calls for increased emphasis on student competency. Creating an accountability plan that is complementary to the requirements of each law will be far more helpful to Utah's schools than to have several accountability plans in action simultaneously. She presented a proposed model, based upon accountability for adequate growth, per student. (For complete details, see General Exhibit No. 9296.)

Motion was made by Member R. Michael Anderson and seconded by Member Tim Beagley to accept the report and to commend Dr. Moulding and her staff. Motion carried unanimously.

Coalition of Minorities Advisory Committee (CMAC) Quarterly Report

Charlene Lui, Chairman and Dr. Nola Lodge of the Coalition of Minorities Advisory Committee presented their quarterly report. Included in the report were recommended changes in Utah's NCLB State Plan; that the state institute a state student identification number to better track individual students; and to change Native American designation to American Indian. (For complete details of the report, see General Exhibit No. 9297.)

Public Participation/Comment

Chairman Kim R. Burningham recognized David VanDyke, Pleasant Grove High School, this year's Milken Educator of the Year. Chairman Burningham shared some background information on Mr. VanDyke who is a science teacher. He noted that Mr. VanDyke will receive a check from the Milken Family Foundation in the amount of \$25,000.

Chairman Burningham presented Mr. Van Dyke with an obelisk from the Milken Family Foundation

Executive Session

Motion was made by Member Teresa L. Theurer and seconded by Member Joyce W. Richards that the Board move into an Executive Session during lunch to discuss personnel issues. The Board was polled and by unanimous consent of those present, the Board moved into an executive session at 12:35 p.m.

Motion was made by Member Joyce W. Richards and seconded by Member Gary C. Swensen that the Board reconvene into open meeting. Motion carried unanimously. The Board reconvened at 1:25 p.m. Motion carried unanimously.

Disability Determination Advisory Committee

Motion was made by Member Debra G. Roberts and seconded by Member Tim Beagley to appoint Jeff

Sheen to the Disability Determination Advisory Council, term to expire June 2008. Motion carried with Members Anderson, Barney, Beagley, Brown, Burningham, Dalton, Moss, Pingree, Richards, Roberts, Swensen and Theurer voting in favor; Member Haws absent.

Adult Education Advisory Committee

Motion was made by Member Debra G. Roberts and seconded by Member Tim Beagley to appoint the following to the Adult Education Advisory Committee, term expirations indicated in parentheses: Cindy Krueger (12/05), Edith Mitko (12/04), David Peterson (12/05), Steve Norton (12/04), Waynae Mifflin (12/04), Don Carpenter (12/04), Suzette Martellaro (12/05); Donald R. Uchida (12/05). Motion carried with Members Anderson, Barney, Beagley, Brown, Burningham, Dalton, Moss, Pingree, Richards, Roberts, Swensen and Theurer voting in favor; Member Haws absent.

Superintendent Search Committee Report

Member John Pingree Chairman, reported that the committee has begun to receive applications. Applications and nominations will be accepted through May 1. They will be screened down to a list of approximately 10 candidates who will be interviewed by the search committee in mid to late May. The committee will present a list of three or four finalists to the full Board for final interview and selection. He indicated that the Board hopes to have a new superintendent named by early June. Member Pingree also noted that the committee has engaged former Deputy State Superintendent Gary Carlston to help gather opinions from various constituencies and to help screen applicants. He noted the announcement for the position in the current issue of *Education Week*.

Vice Chairman Janet Cannon also noted that the Search Committee has been wonderfully served by staff, Marlo Wilcox Mark Peterson, Twila Affleck and Carol Lear.

HB 115 Task Force

Chairman Burningham read Governor Walker's letter relative to her veto of HB 115. (For complete details, see General Exhibit No. 9298) He noted that Governor Walker kept the \$1.4 million appropriated for the bill. She will ask the Legislature to give that money to the Utah State Office of Education to contract with private providers for services for autistic children. In anticipation of that money and duty, the Board appointed the following people to a task force to study how to best use the money: Patrick Ogden, Interim Superintendent, as chair; Laurel Brown, and John Pingree, State Board of Education Members; Stan Beagley, parent of an autistic child; Jeri Freedman, PTA president at Carmen B. Pingree School; Representative Kory Holdaway, Utah State House of Representatives; Dr. William Jensen, University of Utah Educational Psychology; Representative Merlynn Newbold, Utah House of Representatives; Cheryl Smith, mother of Carson Smith, autistic child, Lisa Stamps, parent advocate and Karl Wilson, State Director of Special Education. The task force has tentatively scheduled its first meeting for April 7.

Motion was made by Chairman Kim R. Burningham and seconded by Member R. Michael Anderson to

appoint the above mentioned individuals to the HB 115 Task Force. Motion carried with Members Anderson, Barney, Beagley, Brown, Burningham, Dalton, Moss, Pingree, Richards, Roberts, Swensen, and Theurer voting in favor; Member Haws absent.

Board Standing Committee Reports

Law & Policy Committee

Member David L. Moss, Chairman of the Law & Policy Committee presented the following recommendations from the Committee:

Teacher Preparation Program Approval

At the March 5, 2004 meeting the Board approved the Educator Development Advisory Committee (EDAC) recommendation on the approval process for teacher preparation programs. Many requests had been submitted for approval and placed on hold pending Board action. The requests have been reviewed, following the recommended process and were presented to the Committee for approval.

Based upon the recommendations of the state content specialists and the institution's accrediting organization the Committee approved the following program proposals for teacher preparation in the State of Utah and moves that the Board approval the program proposals as well: Western Governor University, BA in Mathematics; BA in Science; BA in Social Science; MAT in Mathematics; MAT in Science; MAT in Social Science; Post-Baccalaureate Teacher Preparation Program in Mathematics; Post-Baccalaureate Teacher Preparation Program in Science; Post-Baccalaureate Teacher Preparation Program in Social Science; and MA in Science Education. Westminster College, Level II-Advanced Reading Endorsement. (For complete details of the programs, see General Exhibit No. 9299.) The Committee reviewed and approved the programs.

Motion from the Committee that the above listed teacher preparation programs be approved by the Board. Motion carried with Members Anderson, Barney, Beagley, Brown, Burningham, Dalton, Moss, Pingree, Richards, Roberts, Swensen and Theurer voting in favor; Member Haws absent.

Goals and Objectives

Vice Chairman Janet Cannon reported that the Committee also reviewed the goals and objectives. She will gather each committee's recommendations and will email the results to the Board.

Finance Committee

Member Tim Beagley, Member of the Finance Committee presented the following recommendations from the Committee:

External Audit Report

Member Beagley noted that new audit standards are emphasizing that external auditors should meet on an annual basis with either the audit committee or the governing board if there is no audit committee to report the results

of their audits. While the Board has an audit committee, the report of the Utah State Auditor is appropriately considered by the Board's standing Finance Committee.

Jon Johnson and Bertha Lou from the State Auditor's Office presented the results of their statewide single audit. Usually they have a written report of their findings to present. However, Mr. Johnson indicated that this year they had **no findings** to present. This is very unusual and indicates the outstanding job that the accounting department of USOE is doing with Judy DeWaal as their director. It also indicates that issues from prior years have been corrected and that the corrections have been maintained. This audit is distributed to the Legislature, Governor, Federal agencies, and can be found on the State Auditor's website.

Mr. Johnson also distributed a document that his office is giving to management of all state agencies, *Management Antifraud Programs and Controls*. They will be discussing in future audits the materials contained in this document in hopes of being proactive in creating the right kind of climate to reduce the occurrence of fraud in public agencies.

No action required.

Goals and Objectives

The Committee addressed the goals and objectives and decided on four courses of action: Goal 1, Objective 1, Funding for the K-3 reading program this year, identify clear next steps for competency funding. Goal 1, Objective 4, Study the documentation of state use of federal education funds annually. Remain informed and actively support efforts, which could lead to new federal funding streams designated for public education. Explore other possible programs, grants, etc., offered by the federal government and apply if possible. Goal 3, Objective 2, Become better informed on compensation issues including studying the implications of an experienced based pay schedule and looking at salary equity issues between rural and urban districts. Goal 3, Objective 4, Determine the types of professional development activities currently engaged in, the amount of money spent on those activities, and ways to coordinate and share those activities among districts.

Curriculum and Instruction Committee

Member Teresa L. Theurer, Chairman of the Curriculum and Instruction Committee presented the following recommendations from the Committee:

Utah State Instructional Materials

Commission Letter of Support

In February 2004, a report was given to the Curriculum and Instruction Committee in regard to the functions and responsibilities of the Utah State Instructional Materials Commission. At that time, a decision was made by the Committee to have staff compose a letter of support for the Utah State Instructional Materials Commission.

The Committee reviewed a draft letter to the Utah State Instructional Materials Commission and approved it for signature by Chairman Burningham. (For complete details, see General Exhibit No. 9300.)

Motion from the Committee that the Board approve the letter as written to the Utah State Instructional Materials Commission to be sent to each member of the Commission and to each district superintendent in the state. Motion carried with Members Anderson, Barney, Beagley, Brown, Burningham, Dalton, Moss, Pingree, Richards, Roberts, Swensen and Theurer voting in favor; Member Haws absent.

Performance Plus Revision and Next Steps

The details of Performance Plus have been carefully developed in committees, as assigned by the Utah State Board of Education following the Governor's Summits in 2003. A newly revised Performance Plus document has emerged and now needs approval of the Board. Also, USOE staff are requesting further Board direction in convening a final committee to consider graduation and diploma issues as they relate to competency-based education through Performance Plus, especially in consideration of HCR 11, Resolution on Higher Education Remedial Classes. (For complete details of the revised Performance Plus document, see General Exhibit No. 9301.)

The Committee expressed appreciation to the staff and other educators across the state for the tremendous amount of work on this. The Committee spent time going over each page of the proposal and made changes and suggestions. The revised document with the changes will be brought back to the Committee at the May meeting.

The Committee further expressed that this is very exciting and great, but it all relies on funding.

Goals and Objectives

The Committee only had time to address the strategic plan, goals and objectives on a limited basis. They decided that so much of their time is spent on performance plus, therefore, they asked Associate Superintendent Harrington and her staff go through the goals look at the ones assigned to the committee, and determine what is currently being done and make recommendations for what is possible to accomplish and prioritize.

General Consent Calendar

Motion was made by Member Teresa L. Theurer and seconded by Member Linnea S. Barney to approve the General Consent Calendar as presented. Motion carried unanimously, Greg Haws absent.

1. Minutes of Previous Meeting

Minutes of the Meeting of the State Board of Education held March 5, 2004.

2. Educator Licensing Requests for Temporary Authorizations

Requests for Temporary Authorizations as submitted by the Schools Districts were approved as submitted. (For complete details, see General Exhibit No. 9302.)

3. Contracts

A. USU Early Childhood Education. \$84,000. 2004-8/2005 - Fed.

USU, Emma Eccles Jones Center, will consolidate and prepare Instructional Modules for the Reading First Summer Reading Academy.

B. Bach Harrison LLC. \$150,000. 4/2/04-6/30/05. - Amend. - Fed.

To prepare the Utah Spring 2005 School Survey Report.

C. Utah State University. \$7,003. 2/1/04-1/31/05 - Fed.

Lease of Division of Rehabilitation Services, Moab office, located at 125 West 200 South.

D. USU - Early Childhood Development Center. \$84,610. 4/2/04-9/30/06.

Evaluation of the Utah State Office of Education Advanced Placement Incentive Grant.

(For complete details of the Contracts see General Exhibit No. 9303.)

4. State Board of Education Administrative Rule Repeal

The following rules are being repealed because the rules no longer reflect current state and/or federal law. Provisions and language consistent with current state and/or federal law has been incorporated into other rules. The Board repealed the following rules.

R277-510	Special Subject Certification for Small Secondary Schools
R277-511	Eminence or Special Qualification Authorization for Teaching in the Public Schools
R277-512	Letters of Authorization

_____ (For complete details of the Rules, see General Exhibit No. 9304.)

5. Monthly Budget Report

The Monthly Budget Reports provide 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 of the Monthly Budget Report see General Exhibit No. 9305.)

6. WestEd Board of Directors Appointments

Under the provisions of the Joint Powers Agreement for WestEd, the Utah State board of Education appoints two members to their Board of Directors – one to represent the Utah public school districts, and one to represent the Utah State Office of Education.

Currently Superintendent Steven O. Laing represents the Utah State Office of Education and Superintendent Barry L. Newbold of the Jordan School District represents the Utah public school districts.

The State Board of Education reappointed Superintendent Barry L. Newbold of the Jordan School District to represent the school districts on WestEd's Board of Directors for a three-year term, beginning June 1, 2004 and ending on May 31, 2007. Further the Board appointed Patrick Ogden representing the Utah State Office of Education to fill the unexpired term of Superintendent Steven O. Laing, term to expire May 31, 2005.

7. List of Applicants for Licenses

A summary of the list of applicants for initial and renewal licenses was approved by the Board. (For complete details, see General Exhibit No. 9306.)

8. Claims Report

The Claims Report in the amount of \$154,638,953.85 for March 31, 2004 was approved by the Board. (For complete details, see General Exhibit No. 9307.)

Executive Officer Report

Interim Superintendent Patrick Ogden presented the following items of information:

Associate Superintendent Patti Harrington reported on the status of the K-3 Reading Initiative which parallels the Performance Plus.

Associate Superintendent Ray Timothy reported on the recent meetings with the Utah High School Activities Association. The meeting proved to be one for venting. The outcome of the meeting was to better define the scope of the problem and whether it is only in the Davis and Granite Schools Districts or statewide. A survey will be conducted and a follow-up report will be made by the Board in May.

Karl Wilson, Director Special Education, reported that Superintendent Laing met with Superintendent Robinson and finance officer at the Schools for the Deaf and the Blind on March 9 to share with them the decision of the Board and the direction we will be moving with leadership and accountability. After that, he, Superintendent Laing and Chairman Burningham met with the Institutional Council and clarified the issues. He reported that we are in the process of receiving nominations for the Institutional Council membership. Also, we are in the process of putting out a position announcement relative to the leadership position. Further, there has been some legal question raised as to the title of the leadership position and also who appoints the chair and vice chair of the Institutional Council. We realize from the legislative audit that there are many areas where we need to do a better job aligning USDB services with other areas in the Utah State Office of Education.

Member John Pingree asked for clarification relative to the Assistant Superintendent position. Mr. Wilson indicated that the position will remain as it is.

Interim Superintendent Patrick Ogden reported that since the Legislative session the Governor has been very busy. Not only did she veto HB 115, the Carson Smith Scholarship bill, but there were two other vetoes that directly impact the State Office of Education.

Mr. Ogden clarified that the funding for the Carson Smith bill came in two pieces. It came in the bill itself, \$100,000 directed to the State Office of Education to administer the program and then for the scholarships it was \$1.4 million appropriated in the Appropriations Act. When the Governor vetoed the bill, she just vetoed HB 115 and the administrative funding for the Carson Smith Scholarship bill, leaving the appropriation of \$1.4 million in tact at the State Office of Education. There was some question as to whether or not we could still use that \$1.4 million to accomplish the purposes of HB 115 or whether it would require additional legislative authorization. Rather than fight that battle, the Governor has since decided that she will go back to the Legislature at some point in time and ask for authorization to use that funding for whatever the State Board recommends after the task force meets.

Mr. Ogden reported that the other two are line item vetoes. Both are in the Supplemental Appropriations Act. The first one is a one-time appropriation of \$1 million which was to pay for the RFP the legislature chose during the session for innovations in education. Her reasoning behind this was she was “. . .troubled by the legislature issuing a RFP and selecting a vendor in behalf of a state agency. The founders of our nation rightly recognized the potential for one branch to seek to increase its authority at the expense of another. Human nature being what it is, the founders provided us with checks and balances. The success of our democracy depends on continuous, unbending allegiance to separation of powers and checks and balances. Because this line item in H.B. 3 takes a small step in the wrong direction, I feel compelled to veto.” That same issue occurred in another appropriation bill where through that same RFP process the legislature chose Pro Cert to receive the funding to catalogue or connect electronically our core curriculum to textbooks. Again, the Governor indicated that even though you did not specify by name the company you wanted this to go to, it was written in such a way, it was the only one the State Office could contract with, therefore, it is crossing the line. Unfortunately, in this line item are other appropriations and other statements of intent that she did not necessarily want to veto but had to because they were all within the same line item. Particularly, it was in that line item that we were given funding and direction to send \$350,000 to Jean Massieu Charter School for the deaf. We believe that we still have funding in the budget to accomplish the intent of the legislature and to give that \$350,000 to Jean Massieu. While we have no direct legislative directive to send that money there, we can carry out the intent and will work to do so.

Member Joyce Richards commented that she is troubled that we are trying to “bail out” a charter school. Vice Chairman Janet Cannon indicated that this was involved in the discussions of the USDB audit and this money is part of the USDB budget and Jean Massieu is negotiating to become a part of USDB

Mr. Ogden reported that the first meeting of the Task Force for dealing with Special Needs will be tentatively scheduled on Wednesday, April 7 at 4:00 p.m.

Mr. Ogden reported that Associate Superintendent Ray Timothy was presented an award yesterday at Utah State University for “Outstanding Alumni Administrator.”

Mr. Ogden reported that Superintendent Laing was doing as good as could be expected, he sounded groggy, said he felt better in the past, but they had him up at least once walking around will do so again this afternoon.

Board Chairman Report

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

Chairman Burningham reminded the Board that we are still planning to get together on August 5 for a Board Social at his home. The current plan is to invite other Board Members who served during the time Superintendent Laing did. It is the purpose to have some fun at his expense.

Chairman Burningham noted that a task force has been formed to look at the electronic high school to determine whether or not a recommendation for a limited diploma would be offered through that medium. They would like to have a board member be a participant on the task force and he has assigned Dixie Allen.

Chairman Burningham commented that we have typically tried to meet with legislature at three month intervals. It seemed difficult to proceed at this time because of elections, etc. He has communicated with the leaders of both the democratic and republican parties asking them what they felt. Some have responded and felt that we should meet again in May or June. Nothing has been arranged as yet but he will be making arrangements for those meetings. He did encourage Board members as it is possible for them to attend the interim committee meetings, now being held in the West Office Building, as a means to keep in contact with legislators. April 23 is the next one and a calendar of further meetings will be sent to the Board.

Chairman Burningham noted that after new leadership is in place we will set up another meeting in late November or early December.

Chairman Burningham reported that he and Member John Pingree met with Governor Walker relative to the superintendent selection process.

Chairman Burningham expressed appreciation to the Board and to the staff.

Vice Chairman Janet Cannon indicated that the Board was given an assignment yesterday to go forward and try to wordsmith mission statements for the Board. She prepared the responses and asked the Board to read them over and pick their first choice.

Motion to adjourn was made by Member Tim Beagley.

Meeting adjourned at 3:25 p.m.