

MINUTES
MEETING OF THE UTAH STATE BOARD OF REGENTS
UNIVERSITY OF UTAH
November 30, 2001

Regents Participating

Charles E. Johnson, Chair
Pamela J. Atkinson, Vice Chair
Jerry C. Atkin
Daryl C. Barrett
Kim R. Burningham
L. Brent Hoggan
James S. Jardine
David J. Jordan
Nolan E. Karras
E. George Mantes
John B. Norman, Jr.
Jed H. Pitcher
Sara V. Sinclair
Marlon O. Snow
Maria Sweeten

Regents Excused

Linnea S. Barney
David J. Grant
Michael R. Jensen

Office of the Commissioner

Cecelia H. Foxley, Commissioner
Philip V. Bernal,
David Buhler, Associate Commissioner for Public Relations
Don A. Carpenter, Associate Commissioner for Proprietary Schools and Veterans Education
Joyce Cottrell, Executive Secretary
Harden R. Eyring, Executive Assistant
Linda Fife, Director of Academic Programs
Gregory T. Fisher, Director of Internal Audit
Gregory G. Fitch, Associate Commissioner and President, Utah College of Applied Technology
Jerry Fullmer, Director of Information Systems
Brad Mortensen, Director of Business and Finance
Chalmers Gail Norris, Associate Commissioner for Student Financial Aid
Phyllis C. Safman, Assistant Commissioner for Academic Affairs
Norm Tarbox, Associate Commissioner for Finance and Facilities
Gary S. Wixom, Assistant Commissioner for Applied Technology Education and Special Projects

INSTITUTIONAL REPRESENTATIVES

University of Utah

J. Bernard Machen, President
Coralie Alder, Director of Public Relations
Paul T. Brinkman, Associate Vice President for Budget and Planning
George Brown, Utah Education Network
Arnold B. Combe, Vice President for Administrative Services
Jim Cook, President, Utah Higher Education Staff Association
Stephen H. Hess, Assistant Vice President for Electronic Communication
Shirley A. Keiser, Senior Events Coordinator, President's Office
Nancy Lyon, Assistant Vice President for Governmental Affairs
Laura Snow, Special Assistant to the President
Barbara Snyder, Vice President for Student Services
Melissa Turner, Administrative Assistant, President's Office
V. Randall Turpin, Associate Vice President for Facilities Management
Gillian Wilgus, Management Assistant, President's Office
Kim Wirthlin, Assistant Vice President, Office of the Senior Vice President for Health Sciences
Ben Lowe, Student Body President
Mike Nelson, ASUU Officer

Utah State University

Kermit L. Hall, President
Richard W. Jacobs, Budget Director
Patricia S. Terrell, Vice President for Student Services
Justin Huff, Student Body President
Celestial Starr, Student

Weber State University

Paul H. Thompson, President
David C. Eisler, Provost
Allen F. Simkins, Vice President of Administrative Services

Southern Utah University

Steven D. Bennion, President
Ryan Richey, Student Body President

Snow College

Rick Wheeler, Interim President
Michael T. Benson, President-appointee
Rick White, Vice President for Academic Affairs

Dixie State College

Robert C. Huddleston, President
William D. Fowler, Vice President for Student Services

Stanley J. Plewe, Vice President for Administration and Information Technology

College of Eastern Utah

Ryan L. Thomas, President
Charles Foust, Vice President of Academic Affairs

Utah Valley State College

Kerry D. Romesburg, President
James L. Michaelis, Director of Purchasing
Val Peterson, Associate Vice President for College Relations
Bradley A. Winn, Vice President for Planning, Technology, and Student Services
J. Karl Worthington, Associate Vice President for Academic Affairs

Salt Lake Community College

H. Lynn Cundiff, President
Daniel Bingham, Executive Dean, Larry H. Miller Campus
Marjorie Carson, Vice President of Academic Services
Judd D. Morgan, Vice President of Student Services
Richard M. Rhodes, Vice President of Administrative Services
Betty Damask-Bembenek, Nursing Director, Community Health Services

Representatives of Proprietary Schools

Craig Andersen, Ogden Institute of Massage Therapy
Frank Aust, MTA Schools
Alan Bostrom, Universal Accounting Center
Joe Doucette, MicroCert
Kevin Hart, MicroCert
Jason Scholte, Lewis Ayres Trucking School
Randy Schouten, ExecuTrain
Janet Waltus, Lewis Ayres Trucking School
David Westover, Information Technology International (ITI)

Representatives of the Media

Mark Gray, *Standard Examiner*
Jacob Parkinson, *University Daily Chronicle*
Kirsten Stewart, *Salt Lake Tribune*
Twila Van Leer, *Deseret News*

Others

Robert DePalma, Arthur Andersen LLP
Boyd Garriott, Office of the Legislative Fiscal Analyst
Debra Headden, Office of the Legislative Fiscal Analyst
Eric Hunter, Chapman and Cutler
Richard Kendell, Governor's Deputy for Education
John Massey, Legislative Fiscal Analyst

Kelly Murdock, Wells Fargo Public Finance
Todd Thompson, Arthur Andersen LLP
Carlene Walker, Utah State Senate
Kevin Walthers, Office of the Legislative Fiscal Analyst
Lynne N. Ward, Director, Governor's Office of Planning and Budget

Following a breakfast meeting with President Machen and the University of Utah Board of Trustees and meetings of the Board committees, Chair Johnson called the Committee of the Whole to order at 10:45 a.m. on November 30, 2001. He remarked on the interesting phenomenon of having a large attendance in a very heavy snowstorm. He welcomed everyone to the "Winter Wonderland" and excused Regents Barney, Grant and Jensen. Chair Johnson expressed the Board's condolences to Commissioner Foxley on the recent passing of her father. He welcomed Senator Carlene Walker and Representatives Afton Bradshaw and Brad Winn.

Personnel Changes. Commissioner Foxley asked SLCC Vice President Richard Rhodes to stand and tell the Board about the new position he had accepted. Dr. Rhodes said he would become the president of El Paso Community College in Texas on January 1. Commissioner Foxley invited the Presidents to announce any new key appointments. President Romesburg announced that Dr. Elaine E. Englehardt had been appointed UVSC's Vice President for Scholarship and Outreach. He explained that this new position would oversee grants and research funding, extension, continuing education, concurrent enrollment, and international programs. President Machen introduced Laura Snow, who has been appointed Special Assistant to the President and Secretary to the University of Utah. Chair Johnson noted that Interim President Rick Wheeler and President Michael T. Benson were both representing Snow College at this meeting. The transition to Dr. Benson's presidency will be made in December.

Institutional Report – University of Utah Highlights

President Machen thanked the University staff who had cleared the driveways and parking lots earlier in the morning. He also thanked staff members who were present to help with the University's special presentation. President Machen pointed out that the Utah System of Higher Education has the broadest array of instructional programs of any state. There are obvious benefits to the students and the state from this system. He called the "one-size-fits-all" idea very dangerous and said it can also be very destructive. Each component of the System has separate issues and opportunities as a result of their respective missions. These must be acted upon before the System as a whole can improve and make the most of its programmatic opportunities.

The University of Utah is the largest and oldest institution in the state. President Machen noted that research institutions are a creation of the last half of the 20th Century wherein the federal government and industry made a pact that they would support research at those institutions, especially for health and other specific reasons. President Machen pointed out that the University of Utah was not only a graduate and professional school; the University of Utah and Utah State

University graduate 72 percent of the bachelors and masters degree students in this state. The universities are heavily invested in and very proud of their educational missions.

The University of Utah was recently ranked as one of the top 25 public research universities in the country. This prestigious group includes the University of California at Berkeley, Michigan, the University of North Carolina, Penn State, Virginia, Washington, Ohio State and Purdue Universities. Areas studied by the Lombardi Program on Measuring University Performance were federal support for research, the number of faculty elected to the National Academy of Sciences, the number of post-doctoral students, and the amount of private support raised by the universities.

The federal government recognized that the cost of conducting scientific research is significant, and it has been willing to provide funding to support the overhead of institutions who are engaged in research. The University is allowed to retain that money in its own budget for continuing research in a policy implemented by the Regents in the 1980s. Some of the very best scientists at the University are in high demand across the country. This overhead money is used to keep them at the University.

The University also plays a significant role in the economic development of this state. Its \$1.4 billion budget and over 17,000 employees make the University second only to Zions Bank in revenues for top Utah public companies. For every dollar the University receives in state funds, it receives six additional non-state dollars. Faculty research projects turn into patents and additional research opportunities. Many organizations in Research Park trace their origins to research which has been done at the University of Utah. The University is very committed to the role of community partnerships in the state.

President Machen said before he came to the University of Utah, the only thing he knew about the institution's service component was the Bennion Center and its excellent reputation for service. Many other areas – public broadcasting, athletics, cultural arts, and libraries – are important parts of the University's mission.

Chair Johnson thanked President Machen for his excellent presentation. He pointed out that these institutional highlights are very helpful for the Regents to learn more about our fine institutions.

Utah Campus Compact

President Bennion said the Utah Campus Compact (UCC) is part of a nationwide campus compact which is making a vast difference in the lives of many. It was created in Utah about five years ago, when the University of Utah volunteered the services of Irene Fisher on a part-time basis to help launch the Utah Campus Compact. President Bennion thanked University officials for sharing Ms. Fisher and her vision with the rest of the state. She was willing to go to every campus in the state to show the students what they could do to make the UCC successful. Ms. Fisher retired last spring. Through the generosity of the University of Utah and Brigham Young University, resources have been provided to help fund this program for the next two years. President Bennion introduced Gary Daynes, one of the faculty members who has participated in the UCC for several

years and who is now the full-time director. He, along with many others on the various campuses, are giving energy to this program.

Mr. Daynes said although the UCC is only five years old, the idea of higher education being of service to the public is very old and dates back to the founding of Harvard University in 1866. When land grant colleges were founded, they had a public purpose. Community colleges also have a public purpose, which is to educate those who might not otherwise have access to an education. The Utah Campus Compact shares information among students, faculty, administrators, and alumni about service learning opportunities. The UCC is responsible for funding grants to support service learning, for providing training and sponsoring conferences to highlight the public and civic role higher education is playing in this state and across the nation.

USU's Spanish Ambassadors go into the public schools to tutor and mentor. SLCC's Tiffany Rousculp has established a community writing center in the Gateway project, which is open to anyone who is interested in improving his/her writing skills. BYU students learn practical lessons about democracy and the responsibilities of being American citizens. Mr. Daynes said he was pleased to work with all of the institutions in the state. He expressed his appreciation to Edie Mitko and Linda Fife from the Commissioner's staff for their support.

Regent Sinclair expressed her deep appreciation for the wonderful work which is being done and the important role the Utah Campus Compact plays in this state.

Proposed Revisions to Policy R171, *Postsecondary Proprietary School Act and Rules* –
Bonding Levels and Advertising Rules

Associate Commissioner Don Carpenter said a progress report had been given at the September Board meeting on the registration of proprietary schools in Utah and the bonding those schools are required to have. Presently 85 proprietary schools are registered. Those who need to be bonded are bonded. Concern was expressed in the previous discussion about the adequacy of the bonding levels and about advertising rules. As a result, Dr. Carpenter recommended revisions be made in the appropriate rules.

Bonding. Dr. Carpenter referred to Section 7.10 of Tab J. He proposed that the last sentence of that paragraph be amended to add "or to facilitate teach-out arrangements for the student to complete the training for which he or she has contracted." If a school were to prematurely close, it may be more desirable and practical for the students for the state to contract to have their training completed rather than to have their tuition refunded.

Associate Commissioner Carpenter recommended that Section 7.13 be amended to change the bonding level. Rather than basing the amount of the surety bond on the annual gross tuition income, he proposed "twenty percent of the greatest amount of unearned prepaid tuition in the school's possession at any one time during the previous year, with a minimum bond amount of \$5000 and no maximum, or a bond amount determined by the school and accepted by the Board to exceed the costs of proposed potential teach-out arrangements for students at the highest enrollment

levels projected for the bond period.” Dr. Carpenter said for a computer school, for example, we could contract with another school to teach-out those students. This would be less costly than a bond.

Some of the proprietary schools were represented at the meeting. Dr. Carpenter welcomed them and asked them to stand and introduce themselves.

Regent Hoggan asked who was responsible for making the decision as to whether to refund tuition or teach-out the students. Dr. Carpenter said the Regents’ offices work with the students, hopefully prior to a school’s closure, and explain the various options available to them. Rather than giving a partial refund, it is usually best for the students to be taught-out and complete their training. Other schools would welcome the opportunity to take over the students’ training. One school last year taught-out at no cost the students from another school which had to close because they couldn’t obtain required bonding. He said bond funds would go further in teaching out students than in providing tuition refunds.

Regent Jordan referred to Section 7.13 and asked if we had a definition of what is meant by “unearned prepaid tuition.” Associate Commissioner Carpenter said this is when tuition has been paid but the education has not been received. Every school is required to show the Regents’ office their enrollment agreement. The refund is based on the amount of time the education has been offered. Chair Johnson asked if the schools had rules which were different from this policy. If so, would our policy override any contractual agreement? Regent Jordan said the schools’ refund contracts do not necessarily need to coincide with our bonding requirement policy.

Kevin Hart of MicroCert said his school uses accrual accounting based on time and the amount of education over a period of time. MicroCert is allowed to take six months of prepaid tuition, which would be pro-rated in the event of incompleteness. Associate Commissioner Carpenter said the Regents’ policy rules require acceptable refund policies. The public schools in the USHE also have tuition refund policies.

Randy Schouten said ExecuTrain does a lot of customized training. Workforce Services refers many people for training. The programs include low-priced courses and higher-priced courses together in the same program. The program might also include some online training. Their agreements are detailed by line item and how much each class is worth.

Regent Jordan said the policy needs a clear definition of the rules of “unearned” tuition. He also asked about the “no maximum, or a bond amount. . .” The proposed policy currently has no distinction about the lesser or greater of the two options. He asked how people making those decisions would know which of the rules to apply. Dr. Carpenter said he would have no problem with inserting “lesser amount” into that section of the policy. He said he has had contacts with some bond companies. Since September 11, surety bond companies are hesitant to insure large bonds, making it harder for the schools to obtain them. He explained that before settling on a teach-out arrangement, he would obtain bids from competing schools.

Chair Johnson suggested that the policy changes be approved, subject to the precise wording being adopted and reviewed by the Executive Committee. **Regent Atkin moved, seconded by Regent Sweeten, that the proposed bonding changes to Policy R171 be approved, subject to the final review of the Board Executive Committee. The motion carried unanimously.** Chair Johnson asked Associate Commissioner Carpenter to work with Regent Jordan on the specific language.

Advertising. Dr. Carpenter said the intent of Section 8.6.3 was that all advertising be clear and not misleading. This section of the policy has been amended so that schools are better informed and students are not misled. We also do not want promises of employment, specific salaries, or guaranteed passing of examinations including in advertising. One school is currently being sued by its students because of wording in their advertisements which mention specific salaries. Many other states also prohibit advertising that guarantees salaries upon completion of their schools' training. Regent Jardine asked if an advertisement guaranteeing statistically accurate information would be acceptable. He said we could not limit people from making statements in advertising which are correct. There should not be a problem if advertising is limited to statistically accurate information.

Alan Bostrom of Universal Accounting Center said he had had several discussions with Dr. Carpenter regarding this issue. Universal Accounting Center has been in Salt Lake City for over 20 years. For the past 12 years, they have been an excellent partner of the State Board of Regents. Mr. Bostrom said Associate Commissioner Carpenter had been very approachable and willing to consider various issues. His school does not want any deceptive or misleading advertising. He agreed that all advertising should be fair, correct, accurate and verifiable. He asked, "Are we doing the public a favor or a disfavor if no statistics are provided?" The students and employers want the best return on their investment. Verifiable information gives a fair representation and does the students a favor by letting them know of their potential earnings. The schools cannot guarantee, but they can identify potential possible earnings if they can show that information is verifiable.

Mr. Bostrom said he was concerned about the proposed rules as a taxpayer and as a business owner. The Regents have the right and the ability to eliminate any deceptive or misleading advertisement. That authority is already guaranteed. In addition, current laws give or eliminate the schools' right to advertise in specific ways. He suggested that these changes may conflict with existing state laws such as the Deceptive Practices Act.

President Romesburg said that to give prospective students an idea, an advertisement might read "Earn as much as. . ." But he cautioned that students do not always read this as potential; they take it as a guarantee. He urged the Board to be very careful in adopting advertising rules. "Verifiable" is not enough; "statistical" can be more definite.

Regent Jordan referred to Section 8.6.4.4 and recommended changing "any mention of" to "any promise, guarantee, or assurance of student success. . ." He referred to Section 8.6.3.6 and said he did not think it was helpful to give one example of an unfair advertising gimmick. It would be helpful for the Regents to have the administrative authority to terminate the licenses of any institution which engaged in practices which were otherwise unlawful under state laws or regulations. He recommended a more general authority in this section, such as "any advertisement

or solicitation or practice which otherwise violates state statute or regulation. . .” This would give the Regents administrative authority without going to the courts to satisfy a particular case. He noted that people were very creative in their advertisements. This is the nature of competition in a commercial society. It is impossible to put a restraint which will protect every consumer. Regent Jardine said the Deceptive Practices Act and the Truth in Advertising Act are already on the books. He suggested that we check to see how much of this is applicable, and that we tie our rules to other existing legislation.

Chair Johnson said the bonding issue must be settled soon. However, the advertising issue can wait. He suggested that the Board approve only the proposed changes dealing with bonding authority, and that the Board Executive Committee work on specific language. Regent Norman said he thought advertising rules should be discussed with the entire Board.

Jason Scholte from the Lewis Ayres Trucking School said over the last several years, programs of the ATCs had been encroaching upon the proprietary schools in Utah. He asked the Board’s position on this, and he asked for a definition of the ATCs’ mission. Chair Johnson recommended that Mr. Scholte meet with President Fitch and that this issue come before the UCAT Board of Trustees.

Chair Johnson thanked Associate Commissioner Carpenter for his report.

Information Technology (ADP) Study – Arthur Andersen Report

Associate Commissioner Tarbox said for the last several months the institutions and a consulting team from Arthur Andersen had been engaged in a planning process with the intent to look at the structure of the state’s administrative data processing systems and to determine how we can upgrade and update our capabilities in this area. He introduced Robert DePalma from Chicago and Todd Thompson from the Salt Lake office, who presented the results of their study to the Regents.

Mr. DePalma expressed his appreciation for the opportunity to work with the Board of Regents and to study the state’s ADP capabilities. The team evaluated alternative models and identified among them funding and resource requirements. Over 200 stakeholders were involved in this study. He thanked Dr. Tarbox and others involved with the preparation of the report. In general, the systems are inadequate to support the objectives and institutional needs. This does not include institutions which have already replaced their administrative systems, such as the University of Utah. Mr. DePalma said data reporting has been and continues to be a problem. Infrastructure systems need to be changed for system stability. Many institutions face a very real turnover risk when a few individuals are relied on heavily for key support. The study found that the USHE underfunds the IT function when compared with national higher education standards. One-time funding is not adequate to address the needs of IT applications and infrastructure.

Mr. DePalma reviewed the Systemwide Strategic Administrative Systems Objectives on page 7 of the report, and referred to pages 8 and 9, which contained the principal recommendations. The

Andersen team studied eight funding alternative options. The top three options were detailed on page 11 of the report. Alternates 2 and 4, which both envision independent implementations, are high-cost options. Alternative 7 is a shared services option and is the consultant's recommendation from a low-cost perspective. The costs range from \$87 million to \$104 million. Mr. DePalma admitted that the timing may not be appropriate for this funding, but some things can be done now. He stated a shared services environment would provide a 20- to 25-percent cost savings, but it is important that a shared services arrangement be funded adequately. Partial funding would result in less-than-adequate service. Strong support is required from the Board of Regents.

Mr. Thompson referred to the Action Plan shown on page 16 of the report and said some things can be done in the short term in getting started until adequate funding is available. We need to study what degree of shared services is appropriate and identify what makes sense. The Andersen team's recommendation is that UCAT's needs must be included, and adequate requirements for UCAT must also be considered. Chair Johnson said shared services did not appear to be as popular with the institutions. He pointed out that obtaining the necessary funding is impossible at this time.

Regent Pitcher thanked the team for their report. He asked what savings would be made and how long it would take to recover those savings. Mr. Thompson responded that if this is done independently by the schools, it will cost much more. Pay-back cost savings were studied a few years ago. This does not happen any more because these are fundamental foundational needs which do not pay themselves back. However, some alternatives are more costly to implement than others. Some of the systems are currently at the end of their useful and supportable life. This is not true across the board. Some institutions could "limp along" on their present systems for another three to five years.

Regent Jardine asked about the institutional concerns about these responses. He recalled that he had served on the University of Utah Board of Trustees when the Y2K problem was raised. That motivated the school to go to PeopleSoft. At the time he asked if something could be done systemwide [i.e., have all the institutions go to PeopleSoft]. University officials were told that institutional needs were too different to make it practical. He asked the consultants if PeopleSoft could be migrated into a systemwide application. Mr. DePalma replied that there were certainly mission differences and complexities, but some services can be shared. In other states, some applications are shared, but not all of them.

President Thompson said Weber's information technology is based on a system which will not be supported very much longer. The recommendation of adequate funding – one-time and ongoing – is unlikely in the foreseeable future, and certainly not in the next year or two. Weber cannot wait another five years. He asked that the Presidents' hands not be tied until funding is available for a shared systems environment.

Chair Johnson said the System needs to know in which direction we are leaning. Regent Jardine asked if this meant that a common vendor should be selected. Messrs. DePalma and Thompson's response was yes. Regent Atkin asked to hear from the Presidents. Chair Johnson asked that this discussion be rescheduled so more information can be made available to the Regents.

Regent Jordan referred to page 9 of the report and asked about the retraining of existing personnel. Each of our institutions has a computer department; how is it that our own IT people are so far behind on their training? Dr. Tarbox responded that a majority of the training is vendor- or technology-specific and may not be offered at the institutions.

Discussion on this issue will be resumed at a meeting next year.

Economic Outlook and Implications for Budget Request

Commissioner Foxley invited John Massey, Legislative Fiscal Analyst, and Lynne Ward, Director of the Governor's Office of Planning and Budget, to join the Regents at the table and to discuss the current and future state of Utah's economy and implications for the USHE budget.

Mr. Massey said he had heard mixed messages on where the economy is heading and the time required for recovery. Manufacturing and durable goods numbers are the highest they have been all year. Utah is impacted by what happens nationally. Utah's economic infrastructure is diversified so that the national impact is not felt as severely here as in other areas. Economic indicators are creating a concern about revenue projections for FY2002 and FY2003. Mr. Massey said he was trying to "hope for the best but prepare for the worst." Right now it appears there will be a \$202 million shortfall in the FY2002 budget, which will impact the FY2003 budget as well. There will be an increase in revenues in 2003, but it will be calculated from a lower base than the original FY2002 budget.

Mr. Massey said the first budget priority would be to deal with the shortfall. Available money in 2003 will depend on budget reductions which can be continued as ongoing cuts in 2003, with reallocation to the most critical and important programs in the state. The Legislative Fiscal Analyst's office will review the Governor's budget when it comes out and will make a presentation to the Legislature. The most optimistic projection for economic recovery would be in the last quarter of 2002 or early in 2003. This is based on the recovery of the stock market, continuing gains in the War on Terrorism, etc. The state will also plan for recommended contingency funds for if/when additional revenues are realized. Regent Karras asked if five-year projections were available. Mr. Massey said he was currently working on five-month projections.

Ms. Ward said Governor Leavitt would be releasing his budget recommendations to the Legislature on December 14. For FY02, we are looking at a \$200 million shortfall. She distributed copies of Table 6 from the Governor's Budget Summary last year and pointed out the appropriated budget for FY02 of \$9 billion. From this, the Governor originally directed a 2½ percent hold-back. He is limited by state law to not touch the Minimum School Program. This year \$1.7 billion was appropriated for public education, most of which could not be tapped for the hold-back. Transportation funding is now "hard wired" into the Centennial Highway. Debt service must be paid. Current year shortfall estimates show a 5 percent reduction, but it is actually a 10 percent reduction when considering line items which cannot be reduced. The Governor's challenge has been the application of this cut. After September 11, the Governor recommended an additional reduction

of 2 percent. He asked that funding for public education be held harmless, along with funding for higher education and public safety.

Mandates must be paid with the increased money in 2003. The Governor is asking for a 3 percent reduction across the board for mandated costs. The Governor's Computer Science and Engineering Initiative is part of the hope for a rapid recovery. Ms. Ward thanked higher education officials for their support of the Initiative.

President Huddleston said higher education had taken a 2½ percent budget cut. The holidays and New Year are approaching. He asked, if higher education were to receive another cut, when might it be expected? The institutions have the challenge of faculty already under contract and courses already scheduled for Winter Semester. Ms. Ward said the Governor's Office of Planning and Budget was developing a contingency plan. This is all being done with the information currently available. The Governor suggested in October that some of the shortfall be paid from the state's "Rainy Day Fund." Since then, some other solutions have been found so that the Rainy Day Fund is not so heavily impacted. This will be debated publicly during the 2002 Legislative Session.

Mr. Massey said this is not just an FY03 issue. We have to look at the extended future as well. The Legislature is also viewing this as an opportunity to look at programs in the state and to see what kind of long-term changes will have to be made. The Legislature is looking at options which will help with long-term solutions. Other states are making cuts in education, and the Legislature is looking at all options.

Vice Chair Atkinson said we need to come to a clear understanding of what constitutes a rainy day. This is the beginning of that rainy day. We cannot forget our long-term goals. If changes and cuts are made which affect the economy of this state, it could be very costly in the long run. As the economy takes a downturn and people lose their jobs, great demands are put on health care and other areas. She suggested that we need to be looking at what will affect the citizens of Utah more. With an increasing population, we see an increase in the poverty-stricken and homeless. As the economy has gone down, so more people have enrolled in education for job training or career advancement. She asked, Where can the budget be cut which will affect people less than human services and education? Many Utahns feel it is appropriate to take some money from the Rainy Day Fund to help during this difficult time.

Ms. Ward responded that the Rainy Day Fund is one-time money. Revenue projections are an ongoing problem. After the \$177 million shortfall was discussed, the Governor had conference calls with Moody, Standard and Poor, and Fitch. They reviewed the Governor's general plan and they were agreeable with the use of part of the Rainy Day Fund. Their comment was that Utah had "behaved like a AAA state."

Commissioner Foxley remarked that she had heard considerable talk about a stimulus package, both at the federal and state levels. Mr. Massey said part of the state's recovery is contingent upon the economic stimulus package being implemented by the federal government. We need to look at the net effects. What does this do to state income tax? The federal rebates last year were to have been an economic stimulus. About 18 percent of the people spent their checks, and the

rest of the money went into savings and debt retirement. Ms. Ward acknowledged that ideas change daily. One of the latest ideas is a holiday savings of payroll taxes. This could save Utah \$3.5 million, depending on how fast Congress could implement such a plan. In any event, Congress would take this action after the Governor releases his budget.

Commissioner Foxley asked about bonding as part of an economic stimulus package for Utah. Ms. Ward said that was a possibility. State construction numbers are down. Much of the accelerated building in preparation for the Olympics has been done. A number of construction jobs have been lost. Key to the economic stimulation for state bonding would be how fast projects could be developed. If the economy recovers in a year, bonds would probably not be the best stimulus. Mr. Massey said the Legislature was looking at all options. He has not heard anything yet about bonding not being an option. With interest rates so low, this would be a good benefit. All options will be reviewed and nothing will be discounted.

Regent Pitcher asked if the Governor had abandoned his projections of a "V"-shaped recovery. Ms. Ward said the previous projected recovery had moved out about a quarter. The initial recovery projections were for the second quarter of 2002; experts now say it will be at least the third quarter of 2002.

Chair Johnson thanked Ms. Ward and Mr. Massey for their overview. Higher education funding has been held harmless for the remainder of the year. Everyone is subject to a reduced base for next year. This will be the Governor's recommendation; the Legislature will make their own recommendations.

2002-2003 Preliminary Tuition Increase

Commissioner Foxley referred to the Supplement to Tab M in the Regents' folders. With the economic recovery being so uncertain, this is not the time to talk about a one-time permanent increase in tuition, and yet higher education is expected to generate new tuition revenue. During the October Board meeting, the students pleaded that tuition not be increased by more than 3 percent. In consultation with the Presidents, Chair Johnson, and OCHE staff, it was felt that a preliminary percentage was needed as a "marker" to be part of our discussions with the Governor and Legislative Leadership. Commissioner Foxley proposed a preliminary tuition increase at this time, to be followed by additional public hearings and opportunities for public input when the final needs are ascertained and a total tuition package has been determined. She referred to the attachments to the Supplement to Tab M. With the exception of the community colleges, tuition in this state is still very reasonable. We need to be cognizant of the need for additional financial aid; we do not want to price education beyond the students' ability to pay. Commissioner Foxley recommended a 3 percent preliminary "marker" tuition increase and said this issue would be visited again after more economic data is available.

Regent Atkin moved, seconded by Regent Pitcher, that the Board adopt a preliminary first-tier tuition increase of 3 percent for all USHE institutions for 2002-2003, with the

understanding that a final increase will be decided with student input when more information about the state revenue situation becomes available.

Regent Norman remarked that markers generally go up, not down. Chair Johnson invited comments from student leaders who were present. With the understanding that the students would support a 3 percent increase, **vote was taken on the motion, which carried unanimously.**

The meeting was recessed for lunch at 12:45 p.m. and reconvened at 2:20 p.m. Regents Jordan and Snow were excused from the afternoon session.

Utah College of Applied Technology (UCAT) Progress Report

President Fitch expressed his appreciation to everyone at the meeting and across the state for the support and cooperation he had received. He particularly thanked Presidents Cundiff, Romesburg, Thompson and Thomas for their willing assistance. Dr. Fitch also expressed his appreciation to Superintendent Steve Laing, with whom he has met to look at competency-based education for high school students. He remarked that no one is reluctant to serve the students of Utah. He highlighted key school districts who have contributed personnel or funding to assist the applied technology colleges in their growth.

Dr. Fitch referred to Attachment 1 of Tab L and said the UCAT Board of Trustees had met and elected officers. Former Governor Norman H. Bangerter is the Chair, and Douglas Holmes is the Vice Chair of the Board. Mr. Holmes is also a member of the WSU Board of Trustees. The Board is reviewing the terms of its members in order to be in compliance with legislation. They have also identified four standing committees, and those committees have elected chairs. These committees were defined by legislation in the establishment of UCAT. All four focus on key tasks which must be outlined and addressed and brought back to the entire UCAT Board of Trustees. President Fitch referred to the UCAT organization chart on page 2 of Attachment 1. The UCAT operating budget request was shown on Attachment 2. The UCAT Board has ensured that the budget reflects accurately what is needed for UCAT administration and initiatives. The UCAT Board has asked the Legislature for \$15 million so that the Uintah-Basin ATC can own the facility in Vernal. More than 150 individuals attended a meeting in Roosevelt. Another meeting was held in Vernal, which also yielded good attendance and support. President Fitch suggested that the Regents visit Roosevelt to see what the Utah College of Applied Technology is all about. UCAT is the college of partnerships.

Chair Johnson said the UCAT budget was to be reported directly to the Legislative Commerce and Revenue Appropriations Subcommittee. In that way, it varies from the traditional higher education budget. President Fitch said although the Legislature had made this requirement, UCAT will be presenting to the Public and Higher Education Education Appropriations Subcommittees as well as the Commerce Committee. This is part of the partnership concept.

Chair Johnson thanked President Fitch for his report. Dr. Fitch said he appreciated Commissioner Foxley and her staff for their invaluable support. A member of the Commissioner's staff will be working directly with each UCAT Board of Trustees committee.

Reports of Board Committees

Academic and Applied Technology Education Committee

Information Calendar (Tab A). Chair Jardine said the committee had reviewed the following information. No questions were raised in the Committee of the Whole.

- A. University of Utah – Name change of the Women's Studies Program to the Gender Studies Program with corresponding name change of Major and Minor
- B. Utah State University
 1. Name change of Emphasis within the Economics Major from General Economics to Economic Theory
 2. Discontinuance of the Economics Teaching Major
 3. Addition of a new Emphasis in Health/Wellness/Nutrition
 4. Addition of a Minor in American Studies in the Department of English
 5. Addition of a Public Health Minor in the Department of Biology

General Education Pilot Assessment Project (Tab B). Chair Jardine said this project had been going on since the early 1990s to see how we can assess what is happening in the general education areas at each of our institutions. It received a boost with the Legislature's focus on accountability and measurement. The report detailed the history of the General Education Task Force to address these issues. It addressed their efforts to utilize standardized tests and their conclusion that this was not satisfactory. Four areas were studied – Mathematics, Economics, History and Political Science – and the learning increment of the students was assessed. The Task Force continues to work on accountability issues in these areas. Results have been quite satisfactory to the faculty who have been involved. Task Force members are hopeful this will be seen as valuable to the Legislators as well. Very positive feedback has been received from the accrediting agencies about what is being accomplished. There is nothing being done like this anywhere in the country. Regent Grant asked in committee about the comment in the Faculty Recommendations section of the Commissioner's cover letter that “. . . this method of testing does not lend itself to comparisons between and among institutions.” He wondered whether this meant that we were not achieving as much as we might. The committee discussed the differences in the teaching that goes on but concluded that what is really being measured is value added for each student.

The committee also discussed the Educated Persons Conference to be held April 5, 2002 at the University of Utah. Participants at the conference define the basic things an education person should know and discuss how that impacts what is being taught in our System. Chair Johnson remarked to the committee that this was one of the best events he had attended as a Regent. The Task Force is defining four competencies in preparation for a competency-based learning arena. They will continue to report back to the Board. Regent Karras said one of the best things to come out of this as a faculty-driven process was that faculty from all of the institutions were meeting

together to measure the process of teaching. One positive by-product was that each of those who participated was learning what the other institutions were doing.

Process of Approving New Instructional Programs. The committee discussed the process of approving new instructional programs within the Utah System of Higher Education. The Commissioner's staff had prepared a description of how new programs come through the System, approval levels, etc. They then discussed the chart which showed programs under consideration at the institutions. This process alerts the Regents to new programs that are being developed. By the time the Regents' approval level is reached, it is very difficult to challenge proposed programs. This continues to be a very important issue. The committee then discussed that, with some of the programs, the fiscal note is either not as clear or as persuasive as it could be. Discussion followed about trying to have a better description of actual costs, especially in light of the fact that monies are tight, and we want to be sure that if there are trade-offs or other considerations, that the Regents are fully aware of what is happening.

Consent Calendar, Academic and Applied Technology Education Committee (Tab C). Chair Jardine said the consent calendar had included nursing program adjustments at Weber State University and Salt Lake Community College. Both were explained as enhancements to better serve the marketplace and the needs of students. The nursing shortage was discussed and the committee considered whether or not the Regents were a bottleneck in solving this problem. There was no controversy or issue with these proposals. **On motion from Chair Jardine and second from Regent Sweeten, the following items were approved on the Academic and Applied Technology Education Committee's Consent Calendar:**

1. Weber State University – Approval to offer an A.S. Degree in Nursing in Addition to the Existing A.A.S. Degree.
2. Salt Lake Community College – Approval to Restructure the Nursing Program

Regent Hoggan said one of the ATC Presidents had told him that the Regents were a bottleneck in producing enough nurses to meet the demand and said they would propose nurses training at their facility. Chair Jardine said President Thompson had pointed out that Utah was third in the nation in shortage of nurses. The problem is accreditation. At Weber there are 1000 applications for 250 openings. There are more applicants than the institution can educate in an era of shortage. The bottom line is how many students can be taught by the number of instructors and how they can be placed in critical areas. We are limited by funding. Chair Jardine said he did not know whether the shortage of nurses could be solved by an ATC training as opposed to that received at SLCC or WSU. President Thompson said Weber works closely with the Ogden-Weber ATC and their LPN Program and with the Davis ATC as well. The applied technology colleges are providing resources which enable the institutions to educate more students.

President Cundiff said it was being proposed that an ATC do an LPN program, to be matriculated through the SLCC nursing program. There is currently an 18-month waiting list to get into the SLCC program, which is limited by the number of students who can be taught per instructor. President Cundiff noted that both facilities and instructors were problems. It is difficult to find qualified instructors because hospitals hire nurses at a higher wage. Commissioner Foxley said

additional resources could solve this problem. However, there would still be the clinical site issue. Utah has a finite number of locations where nursing students can receive their clinical training. People cannot wait two or three years to get into a program. Also, many licensed nurses in Utah choose not to work because of the high stress, low pay or other considerations.

Vice Chair Atkinson said Utah is unique. There is a national trend of a decreasing number of applicants to health care fields. This is a critical need and it will affect patient care. Nurses are working long hours. The question is how to get the required funding. Nursing faculty and practicing nurses are older these days, and there is no workforce to replace them. It is hard to recruit nursing faculty. Our faculty are being creative in the clinical areas to get valuable experience for the nursing students. Vice Chair Atkinson rued the fact that many people are interested but we do not have the funding to educate them. People are moving on to other professions and getting degrees in other areas. Nurses need to be paid more because they work longer hours, evenings, nights and weekends. Many have gone to work in doctors' offices so they can have "regular" hours. The University of Utah Dean of the College of Nursing is an advocate for better pay.

Chair Johnson thanked Chair Jardine for his report.

Finance and Facilities Committee

University of Utah – Campus Master Plan (Tab D). Chair Hoggan pointed out the five changes to the previous plan, which will eliminate parking terraces or eliminate buildings and add parking. Otherwise, there have been no changes to the master plan since it was last reviewed. **Chair Hoggan moved approval of the University of Utah's Campus Master Plan. The motion was seconded by Vice Chair Atkinson and carried unanimously.** Regent Karras noted that Randy Turpin would be retiring in June. He expressed his appreciation for the University's excellent staff.

Southern Utah University – Authorizing Resolutions for Refunding Revenue Bonds (Tab E). Chair Hoggan referred to Replacement Attachments 3 and 4 in the Regents' folders and said there were two sets of bonds at issue: (1) a 1995 issue that partially funded the construction of the Sharwan Smith Student Center, and (2) a 1995 issue that funded an expansion to the University's stadium. The University proposes to refinance these bonds at an interest savings of approximately \$380,000. The parameters were set forth on Attachments 1 and 2. **Chair Hoggan moved approval of the refinancing of the SUU revenue bonds. The motion was seconded by Vice Chair Atkinson and was adopted by the following vote:**

AYE: Charles E. Johnson, Chair
Pamela J. Atkinson, Vice Chair
Jerry C. Atkin
Daryl C. Barrett
L. Brent Hoggan
James S. Jardine
Nolan E. Karras
E. George Mantes
John B. Norman, Jr.
Jed H. Pitcher

Sara V. Sinclair
Maria Sweeten

NAY: (None)

Ogden-Weber Applied Technology College – Property Purchase (Tab F). Chair Hoggan explained that the property in question was two parcels totaling 2.44 acres. It has been appraised for \$535,000. Last year the Legislature appropriated \$500,000 for the purchase of another parcel of property on Washington Boulevard. The College believes they can acquire the two parcels for this amount. **Chair Hoggan moved approval of the property purchase for \$500,000. The motion was seconded by Regent Karras.** Chair Johnson recommended that President Fitch approach Legislative Leadership for approval as well. President Fitch said he had researched the legislation for restrictive language but found none in the bill. President Wallis has spoken with Speaker Stephens regarding the purchase. The original \$500,000 request was based upon projections/appraisal of the land. However, a Super Walmart has gone in close to the identified parcel of land, escalating the price. The owner is now asking \$1.5 million for the original property. This request is to allow negotiations and possible purchase of the two adjacent parcels that will connect the campus on the north. **Vote was taken on the motion, which carried unanimously.**

USHE – Authorization to Seek Revenue Bond Authority from 2002 Legislature (Tab G).

University of Utah Central Plant. Chair Hoggan said this item had been approved some time ago with the debt to be serviced by savings in energy costs. Part of the funding was done on leases which do not amortize and which require a balloon payment in eight years. The University would like legislative authority at the appropriate time to bond to pay off these leases; prepayment penalties prevent them from doing this now. The committee recommended approval, and **Chair Hoggan moved approval of this bonding authority. The motion was seconded by Regent Mantes.**

Utah State University Research Foundation Facility. Chair Hoggan explained that three facilities would be constructed. The University is requesting a \$19 bond to be paid from revenues (overhead) from the research grants and contracts. **Chair Hoggan moved approval to bond all three facilities. The motion was seconded by Vice Chair Atkinson.**

Southern Utah University. Chair Hoggan said SUU was requesting a \$9 million revenue bond for a Living Learning Facility. The debt will be paid from housing operating revenues. The facility would be just south of the campus. **Chair Hoggan moved approval of SUU's bonding request. The motion was seconded by Vice Chair Atkinson.**

Regent Karras asked about the process and about the System's track record on bonds. He said he needed sufficient information to make a responsible, informed decision. Associate Commissioner Tarbox responded that about every year or so, the information on existing revenue bonds (including original value and current value) is submitted to the Regents for review and discussion. This process can be more extensive if that is the Regents' pleasure. Chair Johnson said the Board relies on rating agencies who study debt ratios and outstanding bond accumulations. Kelly Murdock, Wells Fargo Public Finance, said in 1997 or 1998 the Legislature approved a moral

obligation pledge for any bonds issued by the Board of Regents under Section 53B of the Utah Code. That includes an annual requirement that the Board certify that debt service levels are all being met. A checks-and-balances system is in place whereby each institution is annually required to certify to the Board that they have sufficient revenues to meet their obligations for the coming year. Substantial net revenue covenants must be made for those bonds to remain in good standing with Wall Street. Those covenants are taken very seriously. **Vote was taken on the combined motions, which carried unanimously.**

Fall 2001-2002 Enrollment Report Revisions (Tab H). Chair Hoggan said this revised data was provided for information only and reflected minor reporting reclassifications. He offered to respond to questions; there were none.

Consent Calendar, Finance and Facilities Committee (Tab I). **On motion by Chair Hoggan and second by Regent Sinclair, the following items were unanimously approved on the Committee's Consent Calendar:**

1. OCHE Monthly Investment Report
2. UofU and USU Capital Facilities Delegation Reports
3. UVSC Institutional Residence Repair
4. Annual Money Management Report

Chair Johnson thanked Chair Hoggan for his report.

General Consent Calendar

On motion by Regent Hoggan and second by Vice Chair Atkinson, the following items were approved on the General Consent Calendar:

A. Minutes

1. Approval of the Minutes of the Special Meeting of the Utah State Board of Regents held October 18, 2001, at Snow College in Ephraim, Utah, and by conference call.
2. Approval of the Minutes of the Regular Meeting of the Utah State Board of Regents held October 19, 2001, at Southern Utah University in Cedar City, Utah.
3. Approval of the Minutes of the Special Meeting of the Utah State Board of Regents held via Conference Call on November 1, 2001.

B. Grant Proposals - Approval to submit the following proposals:

1. Utah State University – National Institute of Health, Progression of Dementia: A Population Study; \$2,787,792. JoAnn T. Tschanz, Principal Investigator.

2. Utah State University – National Institute of Neurological Disorder and Stroke, Slow Inactivation of Sodium Channels; \$1,139,560. Peter C. Ruben, Principal Investigator.
 3. Utah State University – Space Dynamics Laboratory, Connections; \$1,899,988. Jan J. Sojka, Principal Investigator.
 4. Utah State University – John Hopkins University, Next Generation Space Telescope; \$2,231,617. Brandon Paulsen, Principal Investigator.
 5. Utah State University – Asian Development Bank, VIE Vocational and Technical Education Project; \$6,770,773. Bruce Bishop, Project Director.
 6. Utah State University – University of Illinois, Project to benefit the public by defining the characteristics and effects of gravity waves in the upper atmosphere on a global scale; \$1,803,781. Mike Taylor, Principal Investigator.
 7. Utah State University – Jet Propulsion Laboratory, Project to benefit the public by gaining a better understanding of the sun’s activities and how it affects the earth; \$37,684,035. Pat Patterson, Principal Investigator.
 8. Utah State University – NASA, Project to benefit the public by greatly advancing our understanding of the space environment of Earth and the effects of solar variability, providing fundamental knowledge needed to develop the capability to predict space weather; \$104,827,643. Harry Ames, Principal Investigator.
 9. Utah State University – National Institute of Neurological Disorder and Stroke, Slow Inactivation of Sodium Channels; \$1,139,560. Peter Ruben, Project Director.
 10. Utah Valley State College – National Science Foundation, Research projects working with undergraduate students; \$940,000.
 11. Utah Valley State College – Department of Labor, Grant for Trades – to establish a power plant generator’s training and apprenticeship program; \$546,420.
 12. Utah Valley State College – TRIO Grant: Educational Opportunity Center – to assist high school students transitioning to college. \$600,000.
- C. Executive Session(s) — Approval to hold an executive session or sessions prior to or in connection with the meetings of the State Board of Regents to be held November 30 or January 18, 2002, at Salt Lake Community College, to consider property transactions, personnel issues, litigation, and such other matters permitted by the Utah Open and Public Meetings Act.

Chair Johnson reported that the following task force assignments had been made:

Health Benefits – There is a need to review once again the increasing costs of these benefits for faculty, staff and students. Regent Jed Pitcher will chair the committee, which will include Vice Chair Atkinson and Regents Karras, Sinclair and Snow. Chair Johnson asked them to report back to the Board in March.

Tuition – Students have requested a group of Regents to interface with the process of looking at base and second-tier tuition. Chair Johnson asked Regents Jardine, Norman and Sinclair to work on that group.

Board Schedule and Structure of Meetings – As a result of discussions in the Council of Presidents, it was suggested that the schedule and structure of Board of Regents meetings be reconsidered. He asked the Board Executive Committee to look at restructuring Board of Regents meetings and to report back to the full Board in January.

Report of the Commissioner

Commissioner Foxley called the Regents' attention to the newspaper articles in their folders which tie an educated populace to the economy. This is crucial for the Legislators to understand as well as the public in general. Also in the folders was a notice of an economic partnership between the University of Utah School of Business and the Utah Information Technology Association (UITA). This is an innovative six-month program called "Master the Business of Technology" and is a unique format for a particular audience.

Meeting Schedule. Commissioner Foxley called attention to the revised meeting schedule for 2002. The only change was in the date of the September meeting. This change was necessitated because the State Board of Education had scheduled a meeting for September 5 and 6, which would involve Chair Johnson, Vice Chair Atkinson, Regent/SBE Chair Burningham and Regent Barney. Commissioner Foxley said she hoped this would be the final change to this schedule. She asked the Regents and Presidents to let Joyce know as quickly as possible if this date change created a problem.

System Summary. The USHE System Summary was updated and included in the Regents' folders. Commissioner Foxley said her staff were in the process of updating the trifold "Facts At A Glance," which should be available for the January Board meeting.

Adjournment

Chair Johnson thanked President Machen and his staff for hosting the Regents. He thanked the Regents and Presidents for overcoming the difficulty of commuting through a very large snowstorm to attend the meeting. He wished everyone a happy holiday season.

The meeting was adjourned at 3:09 p.m.

Joyce Cottrell CPS
Executive Secretary

Date Approved