

MINUTES
MEETING OF THE UTAH STATE BOARD OF REGENTS
TELEPHONE CONFERENCE CALL
February 5, 2002

Regents Participating

Charles E. Johnson, Chair
Pamela J. Atkinson, Vice Chair
Jerry C. Atkin
Daryl C. Barrett
David J. Grant
L. Brent Hoggan
James S. Jardine
Michael R. Jensen
Charles E. Johnson
Nolan E. Karras
E. George Mantes
John B. Norman
Jed H. Pitcher
Maria Sweeten

Regents Excused

Linnea S. Barney
Kim R. Burningham
David J. Jordan
Sara V. Sinclair
Marlon O. Snow

Office of the Commissioner

Cecelia H. Foxley, Commissioner
David Buhler, Associate Commissioner for Public Relations
Joyce Cottrell, Executive Secretary
Richard Davis, Deputy Executive Director, LPP
Harden Eyring, Executive Assistant
Brad Mortensen, Director of Business and Finance
Norm Tarbox, Associate Commissioner for Finance and Facilities

Institutional Representatives

University of Utah – President J. Bernard Machen and Senior Vice President A. Lorris Betz
Utah State University – President Kermit L. Hall
Southern Utah University – Vice President Sterling R. Church
Snow College – Diane Martin, Academic Advisor
Dixie State College – President Robert C. Huddleston
College of Eastern Utah – President Ryan L. Thomas
Utah Valley State College – President Kerry D. Romesburg
Salt Lake Community College – President H. Lynn Cundiff

Representatives of the Media

Ashley Broughton, *Salt Lake Tribune*
Vicki Morton, *Ogden Standard Examiner*
Twila Van Leer, *Deseret News*

Others

William C. Evans, Office of the Attorney General
Kelly Murdock, Wells Fargo
Terry Rock, Wells Fargo
Blake Wade, Ballard Spahr
Paul Wozniak, PaineWebber

Commissioner Foxley welcomed everyone to the conference call meeting at 2:30 p.m. She expressed the Board's condolences to Regent Jensen on the recent passing of his father-in-law. Regent Jensen said he and his wife had appreciated the thoughts and flowers.

Chair Johnson asked Secretary Cottrell to call the roll. A quorum was established. Commissioner Foxley excused SUU President Bennion, who was carrying the Olympic torch in Nephi. She also excused Associate Commissioner Gail Norris.

UHEAA – Approving Resolution, SBR Revenue Bonds, Series 2002 (Office Facility Project)

Chair Johnson asked Finance and Facilities Committee Chair Hoggan to lead the discussion of this item. Chair Hoggan said the Gateway facility had been discussed by the Board many times and the bond had been approved by the Student Finance Subcommittee. He referred to the Proposed Structure of the Bond Issue on page 4 of Tab A. The expected rating for the \$8.17 million bond is AAA. The Subcommittee recommended a fixed-rate, tax-exempt bond with a maturity date of 2023. The not-to-exceed parameters were set forth on the following page. Kelly Murdock said they expected the overall average interest rate to be between 4.82 percent and 5 percent. Because of the moral obligation backing given by the Legislature to the Regents' bonds, the rating from Standard and Poors for an uninsured, stand-alone issue would be AA. Offers are currently being entertained from two insurance companies.

Richard Davis said we were still negotiating with the two proposers. In order to not be required to set up a debt service reserve, we may covenant to maintain a certain level of cash and covenant to establish a debt service reserve, should we fall below that level. The level of cash reserves expected to be required by the bond insurer is estimated to be between one and two million dollars, which is substantially less than cash reserves normally maintained. Blake Wade explained that the Regents maintain a higher level of reserves to keep liquidity in the short-term note fund as well as the bond indentures. This would take advantage of the money that is already there. As long as the cash reserves are above the required level, we would not have to establish a debt service reserve.

Regent Jensen referred to footnote #1 on page 3 and asked about the leased space. Commissioner Foxley explained that because the Legislature only authorized us to bond for \$8 million, we would need to lease additional space in order to get the full space required for our financial aid programs. We are working on a lease agreement program to be brought to the Executive Committee as soon as possible, for ratification by the entire Board in March. Chair Johnson said the financing of the Gateway facility had two components – a bond and a lease. Both were included in the cost evaluation. Regent Jensen asked if we had a sublease arrangement between OCHE and UHEAA at the Triad Center. Commissioner Foxley said there were multiple contracts between floors and even portions of floors. The cost for the Commissioner’s Office space as authorized by the Board and Legislature will not increase. We will cover our costs in the new facility with the same funds.

Regent Hoggan moved approval of the bond, with the stipulation that if a more favorable rating can be obtained for insurance premium by adding a covenant for a cash reserve that this be authorized, too. The motion was seconded by Regent Atkin.

Regent Hoggan explained that both the Student Finance Subcommittee and the UHEAA Board have approved the bonds. The facility will be funded by a combination of student loan administrative overhead funds (86 percent) and state funded operation and maintenance costs (14 percent) for OCHE and Board of Regents offices. Regent Grant pointed out that several former Regents are still heavily involved on the UHEAA Board.

Vote was taken on the motion, which carried unanimously.

Draft Proposed Replacement Policy R801, *Equal Opportunity and Nondiscrimination*

Chair Johnson referred to the recent legislative audit of the University of Utah Medical School and to the proposed changes to policy R801, which dates back to 1977. He clarified that the proposed updates were for discussion at this meeting, with further discussion and action to take place at the March Board meeting. The state auditors have asked that the Regents explain the difference between its policies of recruiting minorities and ethnic groups and its admissions policies.

Chair Johnson asked President Machen for a brief review of the issue. President Machen said the UofU Trustees and University officials feel strongly about the admissions process with its many comprehensive aspects. It is patterned after a national admissions program endorsed by the American Association of Medical Colleges. There is no indication of discrimination attached to the policy, nor to the University’s practice. The concerns raised in the audit are being studied and addressed by the University. There will be a number of changes in the process used, but President Machen reassured the Regents that Medical School administrators have worked very hard on the practice of admissions in this highly selective program, and they feel very good about it. The editorial in this morning’s *Salt Lake Tribune* provided a good understanding of the process and its outcomes.

Chair Johnson said one of the fundamental issues raised in the audit was whether or not there are dual minimum standards on GPA and MCAT scores in that process. President Machen categorically stated that there were no dual standards in the admissions process. He invited all the Regents to read the entire report.

Chair Johnson asked Regent Jardine, the Board's liaison with Health Sciences at the University of Utah, to comment. Regent Jardine said a number of recommendations were made in the audit. One directly related to the Board of Regents, and that was a suggestion that there was an inconsistency and/or confusion between policies of nondiscrimination and policies that encourage diversity. Whether or not this is true, it is a suggestion that must be addressed. Does our current policy need to be updated? If so, it must be done in a way that does not undermine what the Medical School is trying to do.

Chair Johnson pointed out that diversity is part of the Regents' master plan and will continue to be part of our institutions' recruiting process. Regent Jardine said he had some concerns about the language in the proposed draft policy. He suggested that some of the Regents, preferably members of the Academic and ATE Committee, work with the Commissioner's staff on the proposed policy changes. Chair Johnson asked Regent Jardine to chair this group; Regents Jensen and Sweeten also volunteered to serve. Commissioner Foxley said she and Harden Eyring would be working with the group. Assistant Attorney General Evans said he would be happy to participate in the discussion as well. Material will be e-mailed prior to a telephone conference call meeting of the group. The Commissioner asked the Regents and Presidents to let her or Harden know of their concerns and proposed wording. The committee will then prepare another draft for the Board's approval in March.

Legislative Update

Commissioner Foxley referred to the legislative report of the previous week's activities, which was sent to all Regents and Presidents by Associate Commissioner Buhler. Attached to that report was a legislative joint resolution honoring Vice Chair Atkinson in recognition of her long-time service to many groups. Vice Chair Atkinson said it had been an incredible honor to receive this recognition. To hear individual Legislators say personal things about her was a very special honor.

Commissioner Foxley gave special recognition to the Regents who have been so helpful at the Capitol. Chair Johnson and Vice Chair Atkinson are there regularly. In addition, Regents Mantes, Karras, Sweeten, and Hoggan have given reports on issues raised by the Legislative Fiscal Analyst. Hearing directly from the Regents has made a big difference to members of the Higher Education Appropriations Subcommittee. It gives the Legislators an understanding of how involved the Regents are on all of these issues. The Commissioner thanked all Regents for their extra efforts during this Legislative Session.

The Higher Education Appropriations Subcommittee has scheduled an additional meeting at noon on Wednesday, February 6, in the Legislative Fiscal Analyst's conference room. They will be

finalizing their recommendations on the 2003 budget which will be recommended to the Executive Appropriations Committee at 2:00 p.m. Commissioner Foxley noted that the Capital Facilities Appropriations Subcommittee would be holding an additional meeting at noon Wednesday as well. Our most promising hope for funding this year is in the area of capital facilities.

Capital Facilities. Associate Commissioner Tarbox said the signs are good from the Capital Facilities Appropriations Subcommittee. They took action yesterday on several items which affected the Utah System of Higher Education. They are looking at three things during this session: authorization of revenue bonding projects reviewed and approved by the Regents, authorization of non-state funded construction projects reviewed and approved by the Regents, and authorizing and funding a series of state-funded capital development projects. The Subcommittee took action on all three things yesterday. Four USHE revenue bonding projects have been authorized by the Subcommittee for consideration by the full Legislature. Approximately eight non-state funded projects have been approved as well. In addition, they have prioritized a list of 13 state-funded capital development projects, of which 9 are USHE projects. This would necessitate a \$168 million bond, which was approved by the Subcommittee. Dr. Tarbox reviewed the state-funded projects, which would be paid with a combination of cash and bonding. There appears to be support for a bond in this range. Commissioner Foxley said the Subcommittee will likely do some fine-tuning of this list.

Regent Barrett asked if the list had been prioritized. President Hall said he had spoken with Senator Beverly Evans, Co-chair of the Capital Facilities Appropriations Subcommittee, who had said the projects had been listed alphabetically. Commissioner Foxley said the Subcommittee would probably prioritize the projects at their next meeting. Regent Grant asked if it was likely that the SUU building would be added. Chair Johnson said he did not expect any additional projects to be added to the list. Even without additional projects, it would be a very large bond for this state. Commissioner Foxley said a bond of this size would accomplish some of the objectives for a stimulus package mentioned by Dr. Thayne Robson at the last Board meeting.

Higher Education. Commissioner Foxley said the Higher Education Appropriations Subcommittee took preliminary action to adopt a \$34 million budget recommended by the Legislative Fiscal Analyst (contingent on funding being made available). They also requested that if additional funds are made available after the February 15 revenue projections come in, that higher education be given strong consideration for some of those funds. At the top of the list would be enrollment funding. Other items on the Regents' list of priorities were also included.

The Commissioner said Senator Lyle Hillyard had asked that additional needs be identified for funding consistent with the Regents' priorities. The subcommittee will probably do some fine-tuning in their meeting tomorrow, where they will also deal with intent language.

Commissioner Foxley highlighted some intent language proposed by Utah State University. The USU proposal needs the approval of the State Board of Regents because of its implication on future Regent budget requests. She referred to the single paragraph at the bottom of the last page of

the fax. The Commissioner read the proposed intent language, inserting a sentence so that the paragraph read:

“Currently the state higher education budgets are based on the estimated cost of purchasing electricity, natural gas, coal and oil from outside vendors. Institutions that can demonstrate energy cost savings through the installation of cogeneration equipment will be allowed to include the lease purchase cost of that equipment in the annual utility budget requests. Such requests will be in compliance with Board of Regents and State Building Board policies. It is anticipated that the lease purchase cost will be offset by lower energy purchases for electricity and natural gas over the term of the lease purchase agreement. Thereafter, the annual energy cost savings will accrue to the State of Utah.”

Commissioner Foxley asked President Hall to give the background for this request. She said Senator Hillyard was supportive of the language being discussed by the Subcommittee tomorrow, but he realizes that it needs the approval of the Board of Regents as well.

President Hall said the benefit of USU’s new heat plant is that it produces additional steam which can be converted to other power. The problem is obtaining the equipment and being assured that the cost of the equipment would be included in the costs associated with utilities. This will be a permanent fixture and will reduce overall costs of energy to the State of Utah. Lease purchase is the only option for obtaining this equipment, and would be paid with the cost savings. Regent Atkin asked the term of the lease. President Hall said it was a 15-year agreement which should generate approximately \$13 million in savings.

Chair Johnson pointed out that the Regents had previously approved lease purchases for energy savings. Commissioner Foxley said it was her recommendation that USU’s proposed intent language be adopted. **Regent Pitcher moved approval of USU’s intent language. The motion was seconded by Regent Atkin and carried unanimously in a roll call vote.**

Pending Legislation. Associate Commissioner Buhler said the House had unanimously passed the proposed changes to the Postsecondary Proprietary School Act to transfer responsibility from the Board of Regents to the Division of Consumer Protection. The New Century Scholarship bill has passed the House and is waiting Senate action. The UESP bill has passed both houses. Legislation authorizing USHE Presidents to move money among line items has passed the Senate and will be considered by the House committee tomorrow. Earlier in the day, Senator Waddoups’ bill to restrict funding of any state entity whose policy, rule or action is contrary to law was considered by the Senate State and Local Affairs Committee. They voted unanimously to not take action on that bill. Associate Commissioner Buhler said he had spoken with Senator Waddoups after the meeting, and he indicated he has no intention to revive the bill later, saying he had made his point.

The cigarette and tobacco tax amendment, which would provide additional funding to the University of Utah School of Medicine and the Huntsman Cancer Institute, is before the House. They

may or may not get to it before the Olympics break. Associate Commissioner Buhler pointed out that there were only six hours of floor time remaining before the Olympics recess, and eight legislative days after the Olympics.

President Romesburg asked if someone would be at the Higher Education Appropriations Subcommittee meeting the following day to address the issues raised in the proposed intent language, particularly regarding remedial education and residency. Commissioner Foxley assured the Presidents that she and Chair Johnson would be at the meeting, and their purpose will be to have the Subcommittee agree that these issues are the Regents' responsibility. We are not supportive of this intent language. The Commissioner noted that Vice Chair Atkinson had spoken with the Subcommittee the previous day about the different ways to look at this as a System and as a Board.

Regent Pitcher asked if the Regents could get a copy of the full legislative audit of the UofU Medical School admissions process. Commissioner Foxley said she would send everyone a copy.

Adjournment

Chair Johnson thanked everyone for their time and good work. The meeting was adjourned at 3:34 p.m.

Joyce Cottrell CPS
Executive Secretary

Date Approved