



STATE BOARD OF EDUCATION  
TRUSTEES OF BOISE STATE UNIVERSITY  
TRUSTEES OF IDAHO STATE UNIVERSITY  
TRUSTEES OF LEWIS-CLARK STATE COLLEGE  
BOARD OF REGENTS OF THE UNIVERSITY OF IDAHO  
STATE BOARD FOR PROFESSIONAL-TECHNICAL EDUCATION  
TRUSTEES FOR THE IDAHO SCHOOL FOR THE DEAF AND THE BLIND

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**APPROVED MINUTES  
STATE BOARD OF EDUCATION MEETING  
June 17-18, 2004  
University of Idaho  
Moscow, Idaho**

A regular meeting of the Idaho State Board of Education was held on June 17-18, 2004 at the University of Idaho in Moscow, Idaho. The meeting was called to order by Board President Rod Lewis. The following members were present:

Rod Lewis, President	Laird Stone, Vice President
Milford Terrell, Secretary	Marilyn Howard, State Superintendent
Paul Agidius	Blake Hall
Karen McGee	Sue Thilo

The Board convened at 8:00 a.m. on June 17, 2004.

**BOARDWORK**

1. Agenda Review

**M/S (Hall/McGee): To approve the agenda. Motion carried unanimously.**

2. Rolling Calendar

**M/S (McGee/Hall): To approve June 16-17, 2005 as the date, and University of Idaho as the location, for the June 2005 regularly scheduled Board meeting. Motion carried unanimously.**

Board member McGee raised a calendar item concerning the October 2004 meeting date. She asked to change the date because ISU is having a NW accreditation 10-year visit on the currently scheduled dates.

**By unanimous consent, it was agreed to reschedule the October meeting to October 21-22, 2004 at LCSC.**

### 3. Minutes Review/Approval

**M/S (Hall/Agidius): To table approval of the minutes of the April 22-23, 2004, and May 18-19, 2004, meetings until June 18 to give Board staff time to make grammatical corrections. Motion carried unanimously.**

### **EXECUTIVE SESSION**

**M/S (McGee/Hall): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f). A roll call vote was taken. Motion carried unanimously.**

In executive session, the Board considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

The open meeting reconvened at 10:50 a.m.

**M/S (Stone/Agidius): To approve the terms of settlement in the matter of Angel Ramos as discussed in executive session, and to retain jurisdiction over this matter until such time as the settlement becomes final. Motion carried unanimously.**

**M/S (Terrell/Agidius): To approve the settlement of the appeal brought by the Nampa School District regarding the Victory Charter School. Under the terms of the settlement, the Nampa School District agrees to withdraw its appeal and the Victory Charter School will continue as a charter school under the jurisdiction of the Idaho Charter School Commission. Motion carried unanimously.**

### **BUSINESS AFFAIRS & HUMAN RESOURCES**

#### **Section I – Human Resources**

##### 1. Boise State University – New Positions, Changes in Positions, Deletion of Position

Board member Terrell introduced institution representatives to speak to the agenda items on the Human Resources agenda.

**M/S (Hall/McGee): To approve the request by Boise State for eight (8) new positions (7.25 FTE) supported by local funds; term, salary and FTE changes to five (5) positions (4.30 FTE), and deletion of one (1) position (1.0 FTE) as detailed on the Human Resources agenda. Motion carried unanimously.**

##### 2. Idaho State University – New Positions and Changes in Positions

**M/S (Agidius/Stone): To approve the request by Idaho State University for twenty (20) positions (20.0 FTE) and to increase the FTE on one (1) position (1.0 FTE) as detailed on the Human Resources agenda. Motion carried unanimously.**

3. University of Idaho – New Positions and Deletion of Positions

**M/S (Hall/McGee): To approve the request by University of Idaho for three (3) new positions (3.0 FTE) supported by appropriated and non-appropriated funds; and deletion of three (3) positions (3.0 FTE) as detailed on the Human Resources agenda. Motion carried unanimously.**

4. Lewis-Clark State College – New Positions, Changes in Positions, Deletion of Positions

**M/S (Agidius/Hall): To approve the request by Lewis-Clark State College to add six (6) new positions (5.0 FTE) supported by state appropriated funds; to delete two (2) positions (2.0 FTE), and to reduce two (2) instructional positions from 1.0 FTE to 0.5 FTE. Motion carried unanimously.**

5. Eastern Idaho Technical College – Administrative Appointment

Board member Hall remarked that Bill Robertson has served as Interim President of Eastern Idaho Technical College for over a year and has carried out the duties of that position very capably. He noted that Mr. Robertson has the ongoing support of the faculty, community and students in discharging the duties of President. That being the case, Board member Hall suggested that there is no need to conduct a search for a President of that institution, but rather to appoint Mr. Robertson to that position with permanent status.

**M/S (Hall/Stone): To approve the appointment of William Robertson as President of EITC effective July 1, 2004, through June 30, 2005, at an annual salary of \$101,754. Motion carried unanimously.**

**Section II – Business Affairs**

1. Boise State University – Health, Wellness and Counseling Services Center Project Planning and Design

BSU made a presentation to the Board and discussed the various aspects of the proposed Health Services facility. They asked the Board to approve the proposal so that they can move forward with the planning and design of the project.

**M/S (Agidius/Thilo): To approve the request by Boise State University to work with the Division of Public Works to select and contract with an architect and proceed with planning and design of the Health, Wellness and Counseling Services Center Project, at a cost not to exceed \$932,025, from student fee monies to be collected beginning Fall, 2004. Motion carried unanimously.**

## 2. Boise State University – Foundation Report

Jeff Shinn of the Board office staff discussed the Foundation Audit report and noted that this was an information item.

## 3. Boise State University – Facilities Update

Dr. Kustra and Gene Bleymaier discussed renaming the Pavilion. They said the financial support received from Taco Bell over the past few years has helped BSU significantly to finance both the maintenance of the facility as well as the athletic programs. Taco Bell has committed to continuing sponsorship of the Pavilion. Boise State University recommends renaming the Pavilion the Taco Bell Arena.

**M/S (McGee/Agidius): To approve the request by Boise State University to approve the Sponsorship Agreement and rename the Pavilion Taco Bell Arena.** *Motion carried unanimously.*

Dr. Kustra discussed the desire of BSU to consider building a three-story structure as part of the stadium, noting that it would have a luxury press box as well as stadium suites and club seats. Dr. Kustra said BSU plans to solicit commitments from corporations and individuals to purchase stadium suites and club seats in order to put together a concept proposal for the building. When they have a positive commitment from the community, they will return to the Board with an actual project proposal. BSU will emphasize to the media and community that the Board has not approved anything at this point.

## 4. Idaho State University – Status of Land Purchase, Idaho Falls

**M/S (McGee/Agidius): To allow the President of Idaho State University to execute documents necessary to allow Idaho State University to purchase certain real property located at University Place-Idaho Falls from the University of Idaho Foundation with appropriate operating agreements, a lease with University of Idaho, in place prior to closing.** *Motion carried unanimously. (NOTE: This motion was brought back to the table further on in the agenda and an amended motion was passed in its place.)*

## 5. University of Idaho – Idaho Water Center Progress Report & Idaho Water Center Leasing, Operations and Maintenance Contract

Laura Hubbard of the UI presented a progress report to the Board on Idaho Water Center leasing agreements and maintenance contracts. She went over the details of the business plan, including one-time and ongoing costs associated with occupying and maintaining the facility.

Board member Hall asked about UI's contingency plan should the legislature not provide necessary funding for occupancy. Ms. Hubbard said that further internal reallocation would take place in that event. Board member Hall asked that the Board be provided with a copy of the internal reallocations made to date, as well as the anticipated future reallocations. Board member

Terrell asked UI to assure that the presentation in August includes detailed information about the payment and debt process. UI agreed to do so.

6. University of Idaho – Sandpoint Research and Extension Center Land Conveyance

**M/S (Hall/McGee): To approve the University of Idaho’s request to convey 1.442 acres of the Sandpoint Research and Extension Center to the City of Sandpoint and to delegate to the University of Idaho’s President or his designee the authority to execute a right of way contract and deed in substantially the same form as the draft agreements presented to the Board with the agenda materials. Motion carried unanimously.**

7. University of Idaho – Naming/Memorializing Buildings/Facilities – Taylor Ranch

Laura Hubbard of UI discussed this item. It was noted that all the funds are now in place for this building.

**M/S (Agidius/Stone): To approve the University of Idaho’s request to name the new building (cabin) at Taylor Ranch Wilderness Field Station in honor of the DeVlieg family and the DeVlieg Foundation. Motion carried unanimously.**

8. University of Idaho – Athletic Conference Affiliation Change Update

UI staff thanked the Board for their approval and support of their effort to join the WAC and thanked BSU for their support as well. It was noted that an invitation for UI to join the WAC was received.

Board member Terrell asked what the savings will be in regard to travel. It was noted that approximately \$175,000 will be saved in travel with the intention to reinvest savings in the programs.

Board member Hall noted that goals of UI to become a Division-I school had been presented some time ago and asked that materials regarding the original costs of being a Division-I school, including how the costs would be met and the status of meeting those costs as represented, be provided to the Board members at the August Board meeting.

9. Eastern Idaho Technical College – Health Education Facility Project

Bill Robertson of EITC reviewed the details of this item.

There was discussion about the language having to do with indemnification with regard to issues raised about liability. The Board’s attorney spoke to the issue.

Board President Lewis said the Board isn’t pleased with the indemnity clause and recommended further discussion on this. EITC said multiple legal counsel have reviewed this clause and they were agreeable, and that EITC was given to believe this language was consistent with the language used in contracts approved previously.

**M/S (McGee/Agidius): To authorize EITC to enter into and complete the Health Education Facility project transaction and to authorize the President or his designee to finalize and execute the Site Lease, Facilities Lease, Development Agreement and the Operating Agreement for the Health Education Facility at EITC in substantially the same form as the draft agreements presented to the Board with the agenda materials. *Motion carried 7-1 (Stone dissenting).***

**Substitute Motion (Lewis/Agidius): To approve these contracts subject to counsel for the Board and EITC going back to ISBA to renegotiate those clauses and coming to a satisfactory conclusion as regards that language. (Motion was withdrawn.)**

Board member Hall, in noting that EITC used the same language in their contract as was used in other projects the Board has approved this past year, said he wondered why the language is unacceptable now. Board counsel said that legal counsel who approved those other projects have consistently raised concerns on the language in question. Board member Hall said he questions why the Board is singling out this project when the others were previously approved.

Board member Terrell asked that the Board staff be directed to work together with legal counsel and the institutions so that future contracts do not include such language. It was clarified that before future bonding requests come before the Board, the language of the proposals be carefully scrutinized regarding liability and indemnity clauses and that it be emphasized that such language is not be acceptable.

At this time Board member Terrell referred to the issue of the Boise State University Student Recreation Center and called for a motion.

**M/S (Thilo/McGee): To approve the settlement of the litigation regarding the Student Recreation Center at Boise State University. *Motion carried 7-0 (Terrell abstained).***

#### 10. Policy, Bylaws – Audit Committee

**M/S (Agidius/Lewis): To approve the first reading of changes to Idaho State Board of Education Governing Policies and Procedures, Bylaws, Section H., Committees of the Board, to create a new standing Audit Committee. *Motion carried unanimously.***

*At this time, the discussion returned to the status of the land purchase in Idaho Falls by ISU. A motion was made to return to Item 4 of the Business Affairs agenda – Idaho State University/ Status of Land Purchase in Idaho Falls:*

**M/S (Lewis/Agidius): To reconsider the previously approved motion having to do with the ISU land purchase. *Motion carried 6-2 (Hall and McGee dissenting).***

**Amended Motion M/S (Hall/Agidius): To allow the President of Idaho State University to execute documents necessary to allow Idaho State University to purchase certain real property located at University Place-Idaho Falls from the University of Idaho Foundation**

**with the appropriate operating agreement – a lease with UI – in place prior to, or at, closing. *Motion carried unanimously.***

11. Student Health Insurance Plan Renewal

Boise State University

**M/S (Hall/Stone): To authorize Boise State University to renew the contract with CRM, Inc., to provide student health insurance for 2004-2005 at a rate of \$378.00 per student per semester. *Motion carried unanimously.***

Idaho State University

**M/S (Agidius/Hall): To authorize Idaho State University to contract with Academic Risk Management, Inc., to provide student health insurance for 2004-2005 at a rate of \$330.00 per student per semester. *Motion carried unanimously.***

University of Idaho

**M/S (Thilo/Agidius): To approve the request by University of Idaho to authorize the Vice President of Finance and Administration to enter into a contract with Student Resources for the Student Health Insurance Program policy underwritten by The MEGA Life and Health Insurance Company for 2004-2005. *Motion carried unanimously.***

Lewis-Clark State College

**M/S (Hall/Agidius): To grant approval for Lewis-Clark State College to renew its contract with Renaissance Agencies, Inc., to provide student health insurance for 2004-2005 at a rate of \$365.00 per full-time student per academic year. *Motion carried unanimously.***

12. 2004-2005 Room & Board Rates

This information item did not require further discussion.

13. Approval of FY 2005 Operating Budgets

**M/S (Terrell/Stone): To approve the FY 2005 operating budgets for the Office of the State Board of Education, School for the Deaf and Blind, Idaho State Historical Society, State Library, Idaho Public Television, Division of Vocational Rehabilitation, College and Universities, Division of Professional-Technical Education (Postsecondary), Agricultural Research/Extension, Health Programs, Special Programs, and the Capital Budget, as detailed in Tab 13. *Roll call vote was taken. Carried 6-2 (Howard and Stone dissenting).***

The Board referred to page 168 of the agenda materials and asked UI for an explanation of the ongoing trend of financial support, which is not sustainable. Brian Pritcher responded that there are substantial public policy issues that impact fixed costs. He noted that the capacity of every



institution to deliver quality programs is adversely impacted by the deterioration of facilities and faculty salary issues.

Board member Hall asked UI about possible intentions to go to the legislature with a special bail-out appropriation. Brian Pritcher said he is unaware of any special appropriation requests and reiterated that UI is committed to addressing and solving the problem themselves.

Board member Stone agreed there is a system-wide problem, but because UI is an older institution, it faces maintenance and operational issues the other institutions don't face as yet.

Board member Howard said that the Board should note that the institutions are continuing to come to them about the lack of adequacy of funding for their programs, facilities and services. She suggested that the message this sends to the public is that the Board does not support higher education. She went on to ask for discussion about the use of student fees for instruction.

#### 14. Acceptance of FY 2005 Intercollegiate Athletic Reports

Board member Hall asked to defer this item until August. Board member McGee suggested that if there are questions or concerns that they be directed to Board member Stone. Board staff was directed to communicate with Board members Terrell and Stone to determine what format in which to provide the information, and to address issues and questions so that the format is clear.

**M/S (Hall/Agidius): To table this item until August.** *Motion carried unanimously.*

#### 15. Overview of Capital Projects Bonded Through the Idaho State Building Authority

This information item did not require further discussion.

#### 16. FY 2006 Budget Request Guidelines

Jeff Shinn presented this item to the Board. He noted that there were two options for consideration before the Board. Board President Lewis raised a question about the teacher funding equity issue at the School for the Deaf and the Blind. Board staff summarized the need to bring up the level of teacher pay at ISDB so that it corresponds to that of teachers in their geographical area.

**M/S (Hall/Agidius): To direct the agencies and institutions of the State Board of Education to prepare MCO budget requests for FY2006, with MCO being defined as including occupancy costs, according to the guidelines established by the Division of Financial Management in their Budget Development Manual. Enhancements for higher education are to be limited to equity funding and prior year unfunded enrollment workload adjustments, which includes its equivalent for Postsecondary Professional-Technical Education, and enhancements for agencies will be limited to Teacher Funding Equity for the Idaho School for the Deaf and the Blind.** *Motion carried unanimously.*



In discussing the intent of his motion, Board member Hall noted that he interprets his motion to include the unfunded workload adjustment for Postsecondary Professional-Technical Education. Board member Agidius, who seconded the motion, concurred. Board member Hall restated the motion for the benefit of the Board before the vote.

It was clarified that new occupancy costs are part of the normal MCO requests.

Board member Terrell suggested the Financial Vice Presidents change their regular meeting date, and make it more than one day before scheduled Board meetings, to allow enough time to review items prior to Board meetings.

## **PLANNING, POLICY AND GOVERNMENTAL AFFAIRS**

### 1. Presidents' Council Report

President Thomas of LCSC reported to the Board. She noted the Presidents' Council had discussed state funding issues and the need for cooperative efforts and a joint advocacy with business. It will continue to be on the agenda next year. Their retreat will be in August.

Dr. Thomas summarized the newly created draft, based on the Board's directive, of a format for providing clear reporting and criteria for capital projects. The common reporting format will make it easier for the Board to track proposals and projects.

Board President Lewis thanked President Thomas for her leadership over the past year and for the good work done on the tracking system. Board member Terrell also extended his commendation to President Thomas.

### 2. Second Reading for Policy I.J – Use of Institutions Facilities and Services

Board member Terrell discussed this item for the Board. Board member Hall noted that this is the second reading.

**M/S (Terrell/Agidius): To approve for second and final reading of the revisions to Section I.J., Use of Institutional Facilities and Services related to alcohol on campus. This policy will become effective if and when the Board's rules regarding alcohol have been modified to allow for such waivers.** (A substitute motion was made and passed in place of this motion.)

It was noted that the Board still has the ability to grant waivers to this policy in the future if it deems it to be necessary. Board member Terrell encouraged the Board to work with the Presidents to look at future waivers of the policy with thoughtful consideration.

Board member Agidius asked for copies of the reports that Board member Terrell referred to. Board staff were directed to make those copies available to the other members of the Board.

There was discussion about substituting the word "permits" for the word "waivers" in the motion.

Board member Hall suggested tabling the policy until a new rule is in place next year and to continue to operate on a case-by-case approach in applying the generic waiver authority it already has.

**Substitute Motion (Lewis/McGee): To first waive the existing rule and to approve for second and final reading the revisions to Section I.J., Use of Institutional Facilities and Services related to alcohol on campus.** (This motion was amended.)

**Amendment to the substitute motion (Lewis/McGee): To waive the existing rule relating to the use of alcohol to the extent of this policy, and to approve for second and final reading the revisions to Section I.J., Use of Institutional Facilities and Services related to alcohol on campus.** *Motion carried 6-2 (Hall and Agidius dissenting).*

Board member Hall noted that he is opposed to both the policy and the amendment to the rule, because of the mixed message sent to students about alcohol use. Board member Stone said he sees this policy as a way to control the environment given that the Board doesn't have control over individual choices. Board President Lewis suggested the policy was written in the spirit of helping the universities and colleges manage alcohol use on the campuses.

3. Approval of Pending Rules for Miscellaneous Rules of the State Board of Education

**M/S (Terrell/Stone): To approve Docket No. 08-0108-0301, "Miscellaneous Rules," as pending rules and that all portions of areas that say temporary be stricken from Tab 3.** *Motion carried 7-1 (Agidius dissenting).*

4. Approval of Proposed Rules of the State Board of Education and University of Idaho Regents

**M/S (McGee/Terrell): To approve Docket No. 08-0101-0401, "Rules of the State Board of Education and Board of Regents of the University of Idaho – Administrative Procedures and Records," as proposed rules.** *Motion carried unanimously.*

5. University of Idaho – Alcohol Waiver Request

The request for motion was deemed moot based on the new policy that was just passed.

6. Approval of Proposed Rules Governing Commercial Driving Schools

**By unanimous consent, it was agreed to move this item in the agenda to be considered after the Open Forum.**

**INSTRUCTION, RESEARCH & STUDENT AFFAIRS**

1. Approval of 8-Year Institutional Regional Plans and Unique Statewide Missions

Board President Lewis discussed this item and noted that the motion demonstrates the ongoing and open discussions of the Academic Vice Presidents. Future discussions by Council on Academic Affairs and Programs will entail a more in-depth review of issues that the individual institutions have about the assigned statewide missions.

Specific approval of programs and degrees will still need to come before the Board for consideration and approval.

Board member Hall noted that the institutions have taken a considerable amount of time to reach consensus on this effort. Given that, he questioned whether there has been enough time to present this information to the public for their consideration. He also questioned whether future Board members will have a correct understanding of this Board's intention in approving these plans.

It was reiterated that whatever is accepted at this meeting is a work-in-progress, and future efforts to meet the identified needs of a region will be done in cooperation with other institutions.

**M/S (Lewis/Terrell): To approve the assigned unique/statewide missions and the listing of academic programs that the postsecondary institutions plan to present for approval to the Board over the ensuing eight years.** (After discussion, a substitute motion was made in place of this motion.)

**Amended M/S (Hall/McGee): To strike all references in the policy to graduate-level programs at LCSC.** *Motion failed 3-5 (Lewis, Stone, Terrell, Agidius, and Thilo dissenting).*

LCSC said that the Board requested plans from the institutions for possible future requests and stated that they in no way see this policy as giving them license to implement programs or take the institution in a different direction without approval of the Board.

Board member Terrell said he would vote against the motion made by Board member Hall, noting that the institutions were responding to the Board's request for an honest and frank disclosure of information.

Board member Agidius said the original motion appears to approve the programs rather than the plans and sends the wrong message to the institutions and the state.

President Thomas of LCSC said a request for approval of the role and mission is correct, but suggested that the word "acceptance" may better describe the list of programs. She agreed with Board member Terrell that if the institutions are not allowed to express their aspirations to the Board, then the honest and frank discussions the Board encouraged will not take place.

Board member McGee noted that the eight-year plan is an instrument to show the legislature that higher education in Idaho is streamlining its efforts. The indication by LCSC that they may want to offer a masters degree in the future may appear to the legislature as growth rather than streamlining.

Board member Thilo noted that the list of academic programs is not unlike strategic planning that goes on whereby potential concepts are presented and studied with the understanding that they may not be acted upon after further consideration.

Board member Stone said the document is static and subject to regular review. That being the case, it is understood that the listing of programs is subject to change.

Board President Lewis said the statewide missions are the bigger issue and there doesn't appear to be a concern about those.

Board member Howard said that this document, and the exercise undertaken to produce it, is viewed as a road-map, which is the reason LCSC master's plan raises questions.

Board member McGee said her concerns are based on what the public may perceive Board approval of this plan means.

**Substitute Motion #1 (Terrell/Thilo): To recognize the assigned unique/statewide missions and the listing of academic programs that the postsecondary institutions plan to present to the Board over the ensuing eight years.** (This substitute motion did not go to vote.)

**Substitute Motion #2 (Lewis/Terrell): To approve the assigned unique/statewide missions and to accept the listing of academic programs that the postsecondary institutions plan to present for approval to the Board over the ensuing eight years.** *Motion failed 4-4 (Hall, McGee, Howard and Agidius dissenting).*

**Substitute Motion #3 (Lewis/McGee): To approve the assigned unique/statewide missions and to accept the listing of academic programs that the postsecondary institutions plan to present for approval to the Board over the ensuing eight years, striking the references to master's programs at LCSC at this time.** *Motion carried 6-2 (Terrell and Stone dissenting)*

Board member Terrell voted against the motion because it strikes out references to Master's programs at LCSC.

Board President Lewis said this motion does not preclude LCSC from coming to the Board with a notice of intent for masters programs.

## 2. Program Approvals

Boise State University – Full Proposal – Master of Science in Mathematics

Idaho State University – Notice of Intent – Technical Certificate, Massage Therapy Program

Idaho State University – Notice of Intent – B.S., Nuclear Engineering

North Idaho College – Notice of Intent – Technical Certificate, Landscape Technology Program

**M/S (Agidius/ McGee): To approve Boise State University's program request to offer a new Master of Science in Mathematics; to approve Idaho State University's program request to offer a new B.S., in Nuclear Engineering and a request to offer a new Technical Certificate, Massage Therapy Program; to approve North Idaho College's program request to offer a new Technical Certificate, Landscape Technology Program. *Motion carried 7-0 (Hall absent).***

**3. Approval of Research Center Grant Program Recipient**

**M/S (Agidius/Howard): To approve funding of the Center for Applied Technology and Natural Resources Management at the University of Idaho as recommended by Higher Education Research Council and the on-site review panel. *Motion carried 7-0 (Hall absent).***

At this time, the Board recognized and thanked Daryl Jones for his years of service and commitment at BSU. He is leaving the position of Academic Vice President and this will be his last Board meeting.

**4. Approval of Rules of Accountability – English Language Proficiency Standards**

Board member Howard noted that these have been in place for some time and have been reviewed by the LEP Committee. The standards are there for all students. She said the field is ready for these to be formalized.

**M/S (Agidius/Howard): To approve the proposed English Language Proficiency Standards for inclusion into IDAPA 08.02.03. *Motion carried unanimously.***

**5. Approval of Rules for Accountability – Failure to meet Adequate Yearly Progress**

**M/S (McGee/Hall): To approve the changes to IDAPA 08.02.03, Rules Governing Thoroughness, Section 114, Failure to meet Adequate Yearly Progress (AYP) as written. *Motion carried unanimously.***

Board member McGee mentioned that Board staff wanted to commend Allison Westfall, from the State Department of Education, and John Romero, from BOTS, for their significant work on this rule change.

**6. Approval of Distribution of Federal Grants**

**M/S (McGee/Agidius): To retain the following amounts from the No Child Left Behind Act grant funds based on the U.S Department estimates, for management by the Board office (OSBE):**

<b><u>TITLE</u></b>	<b><u>AMOUNT</u></b>
Title II-A Teacher Quality (SAHE + Admin Fee)	\$ 366,892
Title III-A English Language Acquisition	1,419,535
Title VI State Assessments	4,151,376

**The following amount to be passed through to the State Department of Education to be spent according to the tentative plan attached, with the exception that \$25,000 be dedicated for OSBE research of a merit-based performance system for teachers:**

**Title II-A Teacher Quality (State Activities + Admin Fee)       \$ 463,834**

**The balance is to be drawn by OSBE upon request of the State Department of Education for operations and pass through to the LEAs.**

**The Office of the State Board of Education will allocate the state LEP funds based on the number of LEP students according to the previous practice of the State Department of Education. The State Department of Education will issue state LEP funds. Programs will be coordinated and administered by the Office of the State Board of Education. *Motion carried unanimously.***

#### 7. Title I Review

Board member McGee referenced a letter from Representative Barraclough that requests the Board to conduct a thorough review of current practices related to the distribution and management of the Title I funding programs in Idaho. Staff created a proposed timeline for conducting this review.

Board member Terrell made a request for the presentation made by the Department of Education related to Title I monies be provided to him. He asked for the Board's help in reacting to what Representative Barraclough is asking, whether that be by an audit or some other means.

Board President Lewis noted that there are two issues. First, can the funds be lawfully released? Second, are funds being properly distributed?

Board member Howard asked that the Department of Education staff be allowed to provide the information. Board member McGee said that entities are being looked at to conduct the audit.

#### 8. Approval of the Professional Standards Commission (PSC) to Serve as the Advisory Board to the State Board of Education as a Requirement of the National Commission on Teaching Standards (NCTAF)

**M/S (Agidius/Thilo): To approve the Professional Standards Commission as NCTAF's representative advisory group for Idaho, replacing the now disbanded Idaho's MOST Advisory Group. (No vote was taken on this motion.)**

Board members Howard and McGee said they had questions about the impact of approving this action.

**M/S (McGee/Hall): To table this item until the August meeting. *Motion carried unanimously.***

## EXECUTIVE SESSION

**M/S (Agidius/Howard): To enter into executive session pursuant to Idaho Code Section 67-2345 (1), (a), (b), (c), (d), and (f). A roll call vote was taken. Motion carried unanimously.**

In executive session, the Board considered hiring a public officer, employee, staff member or individual agent; considered the evaluation, dismissal or disciplining of, or complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student; considered records that are exempt from public inspection; and considered and advised its legal representatives in pending litigation or where there is a general public awareness of probable litigation.

The Board reconvened at 8:00 a.m. on June 18, 2004.

## OPEN FORUM

Mike Ryals, owner of Ryals Drivers' Training in Eagle, Idaho, spoke to the Board about the draft proposal for the Commercial Driving School Rules. He discussed a number of things in the rules to which commercial drivers' training businesses have objected. He asked that their association be kept informed in a timely way, and that their comments and input be considered before the rules are finalized.

Terry Stevens, resident of Clarkfork, Idaho, spoke to the Board about the issue of splitting the Lake Pend Oreille School District. He asked the Board to reconsider the decision it made in April and put this item back on the agenda for consideration. Board President Lewis noted that the Board has notified the parties that information can be presented to a hearing officer and following the hearing officer's review, the Board will decide whether or not to reconsider the matter. Mr. Stevens indicated that time is an issue, because they hope to put it on the ballot.

At this time, the Board returned to Item 6 of the Planning, Policy and Governmental Affairs agenda.

### 6. Approval of Proposed Rules Governing Commercial Driving Schools.

Board member Hall reviewed this item for the Board and noted the comments made by Mike Ryals in Open Forum. He asked for more time to reconsider the proposed rules and possible modifications.

**M/S (Hall/McGee): To postpone consideration of the draft State Board Rules Governing Commercial Driving Schools until the August meeting and instruct OSBE to put on its website notification that if anyone wants to make comments on these proposed rules, that those comments, together with proposed amendments, be submitted no later than 20 days in advance of the August meeting. Motion carried unanimously.**

## DEPARTMENT OF EDUCATION



Dr. Howard went through the agenda and recommended re-ordering the agenda by moving the following items – C, D, E, F, K, and M – to a Consent Agenda to be acted on at the end of the Department of Education’s agenda.

After brief discussion it was so agreed.

**By unanimous consent, it was agreed that the items referred to by Dr. Howard will be put on the Consent Agenda and acted on at the end of the Department of Education’s agenda.**

A. Adequate Yearly Progress Accountability Procedures

Dr. Howard introduced Allison Westfall, Mary Ann Ranells and Tom Farley to present this item to the Board. They discussed the specific federal sanctions for schools and LEAs receiving federal Title I funds that consistently do not meet state Adequate Yearly Progress goals.

Board member Terrell asked about the procedure used to notify parents. It was noted the LEAs and local districts are directly responsible to notify parents, however, the State Department monitors the districts to assure it gets done.

There was discussion about the degree that these procedures vary from the federal requirements. One difference is choice and the enrollment options that are written in state law.

The major components of the federal plan are part-and-parcel of the district plans, but districts may add other components to their individual plans that aren’t found in the federal plan.

Schools are monitored annually through accreditation to assure that they are meeting all of their goals. As those are met, districts are rewarded. If they aren’t met, they are sanctioned according to the federal requirements. Enforcement has the power of administrative law.

The federal government does grant leniency on some points, such as the starting date of the school year. It was agreed that it would be possible to say that notification of school choice should be made as soon as the data is available, but no later than the first day of school.

Department of Education staff reported that final rules were approved by the Board on June 17 and school improvement plans are included in the document that was approved.

Board President Lewis proposed including language about notification of parents regarding school choice, as well as deleting from the corrective action plan the option of extending the length of school. Dr. West suggested, and it was agreeable to the Board, to further define what it means to “lengthen the school year/day” so it is a more meaningful provision.

Mr. Farley said that as children are added to the testing rolls, adjustments may be made which will significantly change decisions that are made. The law says Idaho must be in full compliance by the end of the 2004-2005 school year.

**M/S (Howard/Terrell): To approve the Adequate Yearly Progress Accountability Procedures with an adjustment clarification of the length of school year and also a change in the wording to say that parents be notified as soon as the districts have the data, but no later than the first day of school, as outlined in Attachment 1. Motion carried unanimously.**

The intention of this motion is that further technical corrections can be made to the document.

B. Cost of Supplemental Services for Non-Title I Schools

Dr. West introduced Tom Farley to present this information item to the Board.

During discussion, reference was made to the numbers used in the formulas. It was noted that the formulas are tied to all schools and all disadvantaged students. Board member McGee recommended that the Board continue to work with the Department of Education and Board staff to address the points of concern. The Board agreed to do so.

G. Office of Performance Evaluations Administration Report – Response and Progress

Dr. Bob West discussed this item and noted several issues of concern. One issue has to do with tracking administrative personnel. The Office of Performance Evaluation would like to see additional personnel added to the list identified as “administrative personnel.” The Department suggested differentiating the two by keeping track of the cost of operational administration while still keeping track of administrators.

H. Office of Performance Evaluations Transportation Report – Response and Progress

Rod McKnight reviewed this item for the Board. He referred to Section H and highlighted recommendations, along with the responsibilities, of the State Board and the Department of Education as outlined there. Districts are providing bus route information for the purpose of putting out Request for Proposals. Of major concern is the fact that the information coming from the company is proprietary from the company standpoint. The Department would like to see that changed.

I. Idaho’s Basic School Bus – Definition and Bidding Process

Rod McKnight presented this item to the Board and noted that they are getting close to defining the basic school bus.

The question was raised about installing seatbelts in school buses. It was noted that national studies have shown seatbelts on school buses, as they are currently constructed, do not show that lives are saved by them although there may be some injury minimizing. National studies indicate that seatbelts may actually increase mortality rates.

In response to a question from the Board, it was noted that school districts can choose to include additional amenities in school buses, but the local district would be responsible for those costs.

### J. Approval for Transportation Proposed Negotiated Rulemaking

Rod McKnight said that this action is in response to a request from the Office of Performance Evaluations (OPE) regarding fiscal accountability for pupil transportation in Idaho, which the OPE was directed to review by the 2003 Joint Legislative Oversight Committee.

It was noted that superintendents have been notified about this proposed rule making, and public input and comments are being solicited. In August, the Department will come back to the Board with a proposed rule.

### L. Appeal of Transportation Reimbursement

**(A complete written transcript of this item is available from the Board upon request.)**

Dr. West introduced this item. He said several school districts recently requested state reimbursement for costs related to school district employees contracted to work as liaisons between the district and school bus companies. Those requests were denied by the State Department of Education for 2002-2003 and 2003-2004 school years, based on its understanding of the administrative rule and the reimbursement standards established in the rule that was approved in 2001.

Roseanne Hardin, the attorney representing three school districts (American Falls, Blackfoot and Twin Falls), presented the points of the appeal to the Board. She introduced Ron Bollinger, Superintendent of American Falls District, and Scott Crane, Assistant Superintendent of Blackfoot.

On behalf of the districts making the appeal, Ms. Hardin asked the Board to waive the Board's rule having to do with reimbursement of these costs, based on the belief that the Department of Education is incorrectly interpreting the rule. The districts are seeking a waiver because they were informed an appeal would have to be filed in District Court.

It was noted that the school districts did not become aware that they would not be reimbursed until March 2004. Referencing a letter from Dr. Howard, Board member Stone asked if the districts provided a list of duties to the Department. Ms. Hardin said that in the original request for reimbursement, there was no requirement for that documentation. Since then, that information has been shared with the Department.

Legal counsel for the Board said that the Board can waive this rule as long as the rights of others are not impacted.

The Board questioned their ability to interpret the rule at this point. Legal counsel indicated that the Board has the right to interpret its own rules, keeping in mind that a change in the interpretation would have a huge impact. Any new interpretation would apply to all school districts, not just those seeking a waiver in the action being considered today.

The recommendation was made to grant a waiver to these three districts, which would allow the Board time to study the rule with more care and attention to determine whether or not to issue an interpretation.

**M/S (Hall/McGee): To grant the waiver request by the Twin Falls School District, American Falls School District, and the Blackfoot School District for the district personnel related to the administration of transportation for 2002-2003 and 2003-2004 and 2004-2005. Motion carried 6-1-0 (Terrell dissenting and Howard excusing herself from the vote).**

Board member McGee indicated she seconded the motion, because the Board needs to look closely at the transportation matrix and the transportation rule.

It was noted that the rules say that the Department will consider additional operational costs as reimbursable. It doesn't appear that there is language that says the Department will not reimburse for non-contract costs.

Though school districts may choose to privatize busing, there may still be a need to employ a liaison to deal with busing issues, concerns and complaints. If the costs of employing a liaison are considered as additional operational costs, it is argued that the Department should be able to reimburse them.

#### N. Special Education Case Load Size – Negotiated Rulemaking

**M/S (Howard/McGee): To approve a Notice of Negotiated Rulemaking for publication in the August Administrative Bulletin. Motion carried unanimously.**

### **CONSENT AGENDA**

**M/S (Howard/Terrell): To approve the following items – C, D, E, F, K and M – by unanimous consent. Motion carried unanimously.**

#### C. Professional Standards Commission Appointments and Reappointments

**Motion: To approve the request by/for Professional Standards Commission reappointments and appointments as submitted. (Motion carried by unanimous consent.)**

#### D. Revisions to Idaho Standards for Initial Certification of Professional School Personnel: Core, Science, Social Studies, and Special Education Standards

**Motion: To approve the request by the Professional Standards Commission as submitted and specifically defined in Attachments 1 through 4. (Motion carried by unanimous consent.)**

#### E. Idaho Standards for Initial Certification of Professional School Personnel: Reading

**Motion: To approve the request by the Professional Standards Commission as submitted and specifically defined in Attachment 1. (Motion carried by unanimous consent.)**

F. Payment Responsibilities for Idaho Teacher Preparation Program Reviews

Information item.

K. Approval of Safety Busing Requests for Reimbursement

**Motion: To approve safety busing reimbursement requests for fiscal year 2004. (Motion carried by unanimous consent.)**

M. Accreditation Status of Summit Academy

**Motion: To approve the recommended change in Summit Academy's accreditation status from "approved" to "approved with warning" for the 2003-2004 school year. (Motion carried by unanimous consent.)**

**SUPERINTENDENTS REPORT**

Dr. Howard presented her report to the Board. She mentioned the recently held Albertson Foundation "Creating High Performance Schools" conference and various achievements that were recognized as a result of this initiative. Dr. Howard noted that work has begun on the FY2006 budget request. In addition, she commended Tom Farley, Mary Ann Ranells and Allison Westfall for their work on the No Child Left Behind requirements.

**OTHER/NEW BUSINESS**

**M/S (Agidius/Thilo): To adjourn the meeting. Motion carried 5-0 (Lewis, Terrell and Hall absent).**

There being no further business, the Board adjourned at 12:25 p.m.