

1. Agenda Approval

Does the Board have any changes or additions to the agenda?

2. Rolling Calendar

BOARD ACTION

To approve August 11-12, 2005 as the dates and North Idaho College as the location for the August 2005 regularly scheduled Board meeting.

3. Minutes Approval

BOARD ACTION

To approve the minutes from April 22-23, 2004, as submitted.

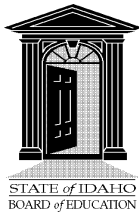
To approve the minutes from May 18-19, 2004, as submitted.

To approve the minutes from June 17-18, 2004, as submitted.

To approve the minutes from June 24, 2004, as submitted.

To approve the minutes from July 12, 2004, as submitted.

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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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**DRAFT MINUTES  
STATE BOARD OF EDUCATION MEETING  
April 22-23, 2004  
North Idaho College  
Coeur d'Alene, Idaho**

A regular meeting of the Idaho State Board of Education was held on April 22-23, at North Idaho College in Coeur d'Alene, Idaho. The meeting was called to order at 8:00 a.m. President Blake Hall presided. The following members were present:

Blake Hall, President  
Paul Agidius  
Milford Terrell

Rod Lewis, Secretary  
Marilyn Howard, State Superintendent  
Laird Stone

**BOARDWORK**

1. Agenda Approval

**M/S (Lewis/Agidius): To approve the agenda as amended adding an additional item in the BAHHR section under finance (BSU Health Center).** *Motion carried unanimously.*

2. Rolling Calendar

**M/S (Stone/Lewis): To approve April 21-22, 2005, as the dates and Eastern Idaho Technical College as the location for the April 2005 regularly scheduled Board meeting.** *Motion carried unanimously.*

3. Minutes Review / Approval

**M/S (Terrell/Agidius): To approve the minutes of the March 11-12, 2004, meeting as submitted.** *Motion carried unanimously.*

**EXECUTIVE SESSION**

**M/S (Stone/Terrell): 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.

**PLANNING, POLICY & GOVERNMENTAL AFFAIRS – Milford Terrell****1. Final Decision on the Angel Ramos Appeal**

**(A complete transcript this agenda item will be provided by the Board upon request.)**

President Hall directed each side of the issue to take no more than 20 minutes to present their position. Keith Roark, attorney for Angel Ramos, appeared by phone. Brian Benjamin, attorney for the State of Idaho, appeared in person.

Mr. Benjamin summarized the history of the case and discussed Dr. Ramos' response to the Corrective Plan of Action that had been developed to address complaints and findings related to his performance.

Mr. Roark noted that while Dr. Ramos had a right to (and did) disagree with several aspects of the Corrective Plan of Action, his response was not evidence of a lack of support of the plan in general. He urged the Board to reinstate Dr. Ramos so that the school could move forward.

President Hall said a copy of the briefing paper and exhibits had just been received by the SBOE members from Mr. Roark immediately prior to this Board meeting.

**M/S (Stone/Terrell): Having read the record, and recognizing the need to resolve this issue and move forward; and having been an advocate, as several others on the Board, to resolve this issue as soon as possible; and recognizing that no matter what this Board decides that there is an emotional component; and now put in a position because of the sudden illness of Dr. Ramos' counsel, which delayed the receipt of their legal brief in support of their position until April 22, and the need for the Board to fully consider that brief; move that this Board, pursuant to the Administrative Procedure Rules, take this matter under**

**advisement and delay a decision on it at this time.** *Motion carried 5-1; Hall dissenting.*

**M/S (Agidius/Stone): 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.

### **INSTRUCTION, RESEARCH & STUDENT AFFIARS – Rod Lewis**

**By unanimous consent the Board agreed to move the charter school appeals to this point of time in the agenda.**

#### 1. Compass Charter School Appeal

**(A complete transcript of this agenda item will be provided by the SBOE upon request.)**

Brendan Taylor, representing the Compass Charter School, spoke to the Board by phone. He introduced Susan Luke and Eric Jensen, supporters of the charter school who appeared in person to speak to the Board. Mr. Eric Exline, Public Information Officer for the Meridian District, appeared by phone.

Ms. Luke outlined the history of the Compass Charter School and the denial of the petition by the Meridian School Board. Mr. Taylor summarized the elements of the appeal. Mr. Jensen, President of the Charter, discussed the reasons for bringing an appeal to the SBOE noting that the school district deliberately delayed action on the charter petition until the SBOE had heard the appeal.

Mr. Exline spoke about the issue of compliance related to attendance noting that the local board's denial was not random, tyrannical nor arbitrary.

When asked why the Charter used a house-by-house admission boundary in its petition, Mr. Jensen indicated that staff of the State Board of Education had advised them to do so in order to include the organizing charter families and that it was inferred to them by Board staff that the boundary did not have to be a contiguous line.

Mr. Exline said it was his belief that the district would reconsider the petition should the SBOE remand it back to the local board for reconsideration. He said the Meridian board had not definitely granted or denied the charter petition as amended. Rather, they deferred that decision until after the appeal was heard by the SBOE.

**M/S (Howard/ Stone): In light of the Board's understanding and having not had time to consider the implications of this charter and its amendments, a motion is made to remand the petition to the Meridian District with instruction that the district reconsider it in light of the new statute. Motion carried 5-1 (Terrell dissenting).**

**Substitute motion (Lewis/Terrell): To refer the application to the Public Charter Commission for their consideration as to whether or not a charter is granted. Motion failed 2-4 (Hall, Stone, Howard and Agidius dissenting).**

## 2. Idaho Leadership Academy Appeal

**(A complete transcript of this agenda item will be provided by the SBOE upon request.)**

President Hall disclosed that a partner in his law firm is married to a member of the board of trustees of the Idaho Falls school board. He said that there is not a conflict of interest on his part because he has not discussed the Leadership Academy with his law partner or his partner's wife nor is he familiar with the dynamics of the petition.

Scott Marotz, representing the Idaho Falls School District, and Brendan Taylor, representing the Idaho Leadership Academy, both appeared by phone before the Board. Mr. Taylor introduced Mr. Adams and Mr. Scherer who appeared in person to represent the Idaho Leadership Academy.

Mr. Scherer, head of the charter school petition committee, explained why they wanted to locate the academy in Idaho Falls. Mr. Taylor noted several sections of Idaho Code and Rules of the SBOE in support of that position and said that comments made by the hearing officer indicate that improper consideration was enacted making their decision to deny the petition improper and arbitrary. Mr. Adams summarized the history of the petition and indicated that a negative relationship had developed between the petitioners and the school district, which was the reason for bringing the petition to the SBOE for its consideration.

Mr. Marotz said that the petition was denied because it was lacking significantly in several areas and that it didn't meet the standards of the prior statute. He suggested the proper remedy is to remand it to the Charter Commission directly.

President Hall asked Mr. Marotz if the Idaho Falls trustees desired to have the petition be referred directly to the new Charter Commission by the SBOE and Mr. Marotz assured him that was the case. He said that if the SBOE would direct the Idaho Falls school board to review the petition, as it currently exists without correcting the deficiencies, the local board would be compelled to refer it to the Commission itself.

**M/S (Agidius/Lewis): To refer the petition to the Public Charter Commission to be considered under the new public law.** *Motion passed 4-2 (Stone and Howard dissenting).*

**Substitute Motion (Howard/Stone): To send the petition back to the local district for their reconsideration under the new law.** *Motion failed 2-4 (Hall, Agidius, Lewis and Terrell dissenting).*

Dr. Howard said the reason for her substitute motion was to give the local board an opportunity to make their decision, but if the local board is bypassed she would support denying the petition altogether because of the lack of sufficiency. President Hall expressed similar concerns with the petition, but today's meeting didn't allow time for a thorough review of the petition so he recommended referring it to the Commission.

### 3. Rolling Hills Charter School Appeal

**(A complete transcript of the discussion of this appeal can be provided by the SBOE upon request.)**

Doug Varie, the attorney for the Rolling Hills Charter School, appeared in person before the Board. Representing the Boise District by phone were Stan Olson and John King.

Mr. Varie outlined the reasons for the Rolling Hills Charter School appeal and requested that the transcript of the hearing officer's findings be made part of the official records of the SBOE appeal hearing. He noted that the Boise district's denial was based on the issues of preference given to the founders' children and special education. He said that at public hearing the petitioners were prepared to address those issues, but were not given the opportunity to do so. He asked that if the SBOE does not find sufficient cause to approve the charter, that they refer it to the Commission due to the fact that the working relationship with the Boise district has been damaged.

Mr. King indicated that the original petition was incomplete in many areas when it was first submitted. He reviewed the findings of the hearing officer and said that the petitioners were urged to refile their petition. Board member Stone asked the position of the Boise district on referring this petition to the Commission. Mr. King said their preference would be that the petition be referred back to the school district, that it be amended and reconsidered again for next year.

When Dr. Howard asked if the Boise district had had the opportunity to review the petition as amended it was noted that a letter was sent to the Boise district by the petitioners to inform them that the Rolling Hills Charter would handle the special education responsibilities on November 1<sup>st</sup>.

Dr. Howard asked about the current attendance boundaries and Mr. Varie explained that the boundaries take in two school districts, Meridian and Boise. The petitioners said they were willing to work with the local board to arrive at attendance boundaries that were agreeable to them.

President Hall asked the SBOE deputy attorney, Kent Nelson, for clarification on several points. Mr. Nelson said that if a charter is approved, it stays in place until it is revoked by the chartering agency. In respect to attendance boundaries under the new statute, a charter school can include more than one district. The statute does appear to bar a charter school from having facilities in more than one district.

**M/S (Howard/ Agidius): Move to remand this petition back to the district to review as amended and in consideration of the current law.** *(The substitute motion carried in place of this motion.)*

**Substitute Motion (Terrell/ Lewis): To refer this petition to the Commission for their review and consideration.** *Motion carried 4-2 (Howard and Agidius dissenting).*

Mr. Terrell said the reason for his motion was because the parents who have worked on the charter school petition have been diligent and that there is evidence that the district would not offer them a neutral hearing.

## **PLANNING, POLICY & GOVERNMENTAL AFFAIRS (continued) – Milford Terrell**

By unanimous consent the Board agrees to modify the PPGAC agenda and switch items 6 and 7.

### **2. Presidents' Council Report**

Dr. Dene Thomas reported to the Board on behalf of the Presidents' Council. She noted that they had met with the Department of Administration to discuss improving communication. Also, good progress has been made regarding capitol projects. A form is in place and will be brought to their June meeting in order to give the vice presidents the opportunity to review it. The Presidents also discussed how to achieve a more unified approach to higher education.



**3. North Idaho College Progress Report**

Dr. Jerry Gee reported to the Board on behalf of Dr. Michael Burke. He noted NIC recently went through the process of reassessing its mission and vision. Considering the mission, NIC went through a strategic planning process. Dr. Gee summarized the strategic plan initiatives that were developed. He discussed the instructional issues of the college including accreditation, enrollment and curriculum. He distributed handouts to the Board members.

**4. Reappointment of Larry Weeks to the Idaho State Library Board of Trustees**

Karen Gustafson introduced this item to the Board.

**M/S (Howard/Hall): A motion to reappoint Mr. Larry Weeks to the Idaho State Library Board for a term beginning July 1, 2004 and ending June 30, 2009. Motion carried 5-0 (Stone absent).**

**5. Appointment of New Members to Eastern Idaho Technical College Advisory Council**

Karen Gustafson introduced this item to the Board.

**M/S (Hall/Howard): To approve the reappointment of M. Reed Hansen, Franklin Just, Joseph Groberg, Dr. Fred Gunnerson and Russell Spain to the EITC Advisory Council through December 31, 2006. Motion carried 5-0 (Stone absent).**

**7. Update on the Proposed Amendment to Governing Policies and Procedures to Allow for an Alcohol Policy**

Board member Lewis said, following direction of the Board to review Governing Policies and Procedures to allow for an alcohol policy, action has been taken to amend it so that it has appropriate specificity. A general view was adopted earlier by the Board that the institution CEO had a considerable degree of authority to grant permits for alcohol use on their campus. However, it was determined that there needed to be guidelines and procedures established to assure that there was consistency among the campuses.

Kent Nelson, legal counsel to the Board, discussed the components of the policy itself (Section I, Subsection J, Item 2) for the benefit of the Board members. He noted that any time a permit is granted it is incumbent on the institution to provide a copy of the permit to the Board office in a timely manner. He said the permit must be event-specific and that the event has to be specifically defined and consistent with the proper image and mission of the institution. Board member Lewis said that the policy has that kind of parameters, which preclude the inappropriate consumption of alcohol.

It was affirmed that institutions would still need to seek a waiver from the Board in order to serve alcohol outside of the restrictions of this policy.

Mr. Nelson provided a handout to the Board that better defined the term “living quarters” in section 2.c.

Board member Stone asked how the policy addressed the issue of there being a minor who has a roommate of legal age and the presence or consumption of alcohol. Mr. Nelson said that there is nothing that prohibits the CEOs from establishing a more stringent policy along this line.

**Motion by Lewis: To approve the policy as presented as a first reading as it appears in the amended version. *(No second)***

It was noted that there will probably be further edits to the policy and opportunity to review them during the second reading of the policy.

**M/S (Lewis/Agidius): To amend the motion to approve the edited version of the policy that was distributed to the Board members. *(There was no vote on this motion because the substitute motion carried.)***

**M/S (Lewis/Agidius): To approve the proposed amendment to Governing Policies and Procedures to Allow for an Alcohol Policy as submitted in the handout given to all the Board members by Mr. Nelson for first reading. *Motion carried 6-0.***

As a point of discussion, Dr. Howard asked that Mr. Nelson underline changes.

At this time, Board member Terrell asked if Boise State University wanted to move forward with its agenda items having to do with requests for waivers to the Alcohol Rule. Dr. Kustra said that he was agreeable to that.

President Hall recommended that the Board table items 6 and 8 until the final policy is approved, and determine at that time if the following waiver requests are necessary.

Board member Lewis said that the action taken by the Board today should be taken as a demonstration of its intent not to allow alcoholic beverages at the institution student athletic events. Dr. Kustra asked if it would still be permissible to seek a waiver. It was so noted.

#### 6. Request for Waiver to the Alcohol Rule – North of Bronco Stadium

This item was tabled until the next meeting.

**8. Request for Waiver to the Alcohol Rule – Boise State Athletic Hall of Fame**

This item was tabled until the next meeting.

**INSTRUCTION, RESEARCH & STUDENT AFFAIRS (continued) -- Rod Lewis****4. Appointment of Committee and Approval of Scope of Work for Review of Direct Writing Assessment in the 11th Grade**

Randy Thompson said that the Board staff worked with Ms. Fisher to collect names for the Committee along with recommendations for the scope of work of that committee.

President Hall noted that this item should be informational at this point with the President making the appointments to the Committee from the list of names provided. It was also determined that the scope of work should be decided by the new Board president at the time the committee was appointed.

**5. WICHE New Direction Grant**

**By unanimous consent it was agreed to defer this item until the June Board meeting.**

**6. FY05 Idaho Technology Incentive Grant Program**

Randy Thompson presented this item to the Board.

**M/S (Terrell/Hall): To approve the funding of the projects as exhibited on the FY2005 Idaho Technology Incentive Grant Program Proposals document. *Motion carried 5-0 (Agidius absent).***

**7. Idaho State University- New Graduate Degree Program: Masters of Dental Hygiene**

Jonathan Lawson of ISU presented this item to the Board along with other staff from ISU noting that ultimately this program could be delivered statewide via distance education facilities.

**M/S (Hall/Terrell): To approve Idaho State University's Notice of Intent for a Master of Science program in Dental Hygiene. *Motion carried unanimously.***

**8. Boise State University-New Administrative/Research Unit: Center for the Study of Aging**

Daryl Jones of BSU presented this item to the Board.

**M/S (Hall/Stone): To approve Boise State University's Center for the Study of Aging.** *Motion carried unanimously.*

9. Update from the LEP Committee

President Hall noted that a number of the members of the current Board serve on the LEP Committee and that committee has met on 3 occasions. It is anticipated that a 4<sup>th</sup> meeting will take place in the near future. The committee is in the process of trying to establish a baseline and anticipate returning with findings and recommendations in the near future.

10. Temporary and Proposed Rule Amendment to the Rules Governing Accountability to Allow for Increased Flexibility in AYP Determination as Allowed by the US Department of Education Guidelines – Docket No. 08-0203-0401

Randy Thompson introduced this item to the Board noting that it brings forward three changes to the rules that are consistent and responsive to flexibility. He directed the Board members to page 41 of the IRSA agenda and briefly summarized the changes.

Dr. Howard asked if there had been discussion about the “needs improvement” status. Mr. Thompson said that there had been discussion noting it specified it had to be in the same subject. It does not affect this policy proposal.

**M/S (Hall/Terrell): To approve the Temporary and Proposed Rule Amendment to the Rules Governing Accountability – Docket 08-0203-0401.** *Motion carried unanimously.*

11. Update on Rules Governing Charter Schools

Board member Stone discussed a short outline that was distributed to the Board. He noted that the Board has been working with the staff of the State Department of Education and the Attorney General to develop proposed rules for the first reading. He asked that Board members review the handout and make comments to the Board staff.

**By unanimous consent the Board agreed to move to the Business Affairs and Human Resources agenda at this time.**

**BUSINESS AFFAIRS & HUMAN RESOURCES****Section II – Human Resources**1. Boise State University – Head Coach or Athletic Director Employment Contract

Jeff Shinn introduced this item. During discussion it was noted by President Hall that it would be easier to discuss the new contract if there was a comparison document to refer to.

**By unanimous consent it was agreed to defer this item to Friday's agenda in order to all BSU staff to prepare a comparison document.**

2. Idaho State University – New Positions

Jeff Shinn introduced this item.

**M/S (Terrell/Agidius): To approve the request by Idaho State University for eight (8) positions (7.0 FTE). Motion carried unanimously.**

3. University of Idaho – New Positions/Deleted Positions

**M/S (Terrell/Agidius): To approve the request by University of Idaho to add one (1) new non-faculty exempt position (.75 FTE) and to delete five (5) positions (4.70 FTE). Motion carried unanimously.**

4. Lewis-Clark State College – New Positions

**M/S (Terrell/Stone): To approve the request by Lewis-Clark State College for three (3) positions (3.0 FTE). Motion carried unanimously.**

5. Boise State University – Request for new positions, changes in positions and deletion of positions.

**M/S (Terrell/Lewis): To approve the request by Boise State University to add sixteen (16) new positions (15.75 FTE); to change title, term, salary and FTE for seven (7) positions (7.0 FTE); and to delete ten (10) positions (9.5 FTE) as detailed in the Human Resources agenda. Motion carried unanimously.**

**Section I – Business Affairs**

**By unanimous consent it was agreed to defer Tabs 2, 9, 13 of the Business Affairs agenda to Friday's meeting in order to allow for further preparation time on these.**

**By unanimous consent it was agreed to move Tab 7 of the Business Affairs agenda to the beginning of the agenda.**

7. Eastern Idaho Technical College – Idaho State University Health Science Building in Idaho Falls

Jeff Shinn introduced this information item to the Board.

President Hall, noting that an MOU between the two institutions has been signed and that the Legislature granted additional funding for the project above what the Board approved, asked if bonding for the full amount was obtained and then the EDA grant was awarded, what would be the intent regarding the bonds. EITC said that the intent would be to pay the bonds down according to the amount of federal money coming in. President Hall asked if the grant was over and beyond, was there any consideration underway to expand the facility and accommodate more than what was originally planned. Dr. Bowen said if additional funds could be obtained, the institutions would come to the Board to request use of those funds to expand the project.

1. Idaho State University – Land Purchase College of Technology – Parking Lot/Pocatello

Jeff Shinn introduced this item to the Board. Mr. Prolo of ISU discussed the land purchase noting that this property is just outside the campus. It is a vacant property and it would be converted to and maintained as a parking lot by ISU. It was noted that there are no restrictions on building on the property. It is currently zoned as residential.

**M/S (Agidius/Stone): To approve the request by Idaho State University to proceed with the purchase of vacant real property located at the SW corner of 2nd and Sutter Streets (Lots 1 & 2 and a small part of Lot 3 as defined in Block 360 Pocatello Townsite). Motion carried 5-0 (Hall absent).**

4. University of Idaho – Land Transfer & Easement to Idaho Transportation Department

Jeff Shinn introduced this item to the Board. UI staff discussed the land transfer proposal. It is a farm property south of Moscow on Highway 95.

**M/S (Howard/Agidius): To allow the University of Idaho to convey 0.09 acres of unused property on the Kambitsch Experimental Farm and grant a temporary easement to the Idaho Transportation Department to authorize the completion of a federal Highway 95 widening project between Lewiston and Moscow. Motion passed unanimously.**

5. University of Idaho – Sale of Timber from Experimental Forest

Jeff Shinn introduced this item to the Board noting that it was an information item. Laura Hubbard of UI responded to questions from the Board. She noted that the basis for the timing of this sale has to do with the research and academic programs of the institution and management of the forest.

#### 6. Lewis-Clark State College – 2003 Foundation Audit Report

Jeff Shinn introduced this item to the Board noting that he reviewed the audit and found no issues for concern. Board member Lewis asked about the process for reviewing such audits. After discussion, President Hall suggested Mr. Shinn work with Board member Agidius to draft a proposed policy on how audits are received, reviewed and presented to the Board. Board member Agidius noted that was already underway.

#### 8. Tuition Waiver Reports by BSU, ISU, UI and LCSC

Jeff Shinn introduced this item to the Board and said the computer science and information technology portion of the waivers are based on past economic conditions. He asked the institutions to update the Board on the current need for such waivers.

BSU said the waivers they grant are primarily in engineering. ISU said that they have a number of waivers that they grant even though the market place has changed somewhat.

UI was asked how it utilizes partial waivers and they noted that they had continued to make aggressive use of the waivers that the Board has approved. Board member Lewis asked UI to provide a thorough presentation on how these partial waivers are granted at the June meeting.

LCSC reported that they use the waivers to support their enrollment plan. Dr. Thomas noted that partial waivers are granted as part of their recruitment plan. President Hall observed that LCSC uses the waivers more for freshmen. Board member Agidius asked if waivers are ever granted on the vocational side. LCSC said yes, they are used on both sides.

**M/S (Stone/Agidius): To accept the Nonresident Tuition Waiver – Fall 2003 reports for Boise State University, Idaho State University, University of Idaho and Lewis-Clark State College as presented on pages 33-37, subject to the information that will be presented by UI at the June meeting. *Motion carried unanimously.***

**10. FY 05 College and University Appropriation – Legislative Intent**

Jeff Shinn introduced this item to the Board and discussed the ramifications of reallocating existing funds. He recommended discussion by Executive Director, President of the Board, Chair of the President's Council and himself.

**M/S (Lewis/Stone): To refer this to the executive committee and other parties.**  
*Motion carried unanimously.*

**EXECUTIVE SESSION**

**M/S (Stone/Agidius): 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 5-0 (Terrell absent).*

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 April 23, 2004.

**OPEN FORUM**

Sherri Hatley of Clarkfork, Idaho, spoke to the Board concerning the proposed school district split of the Lake Pend Oreille School District giving examples of why this would have a negative impact on the children and the communities of Hope and Clarkfork. She informed the Board that approximately 70% of constituents in those communities who were surveyed last March opposed the split.

Mike Patano of Coeur d'Alene, spoke to the Board about the restoration of UI College of Art and Architecture. He respectfully requested that the Board begin immediately to restore the College of Art and Architecture and assure that no other major decisions be made until a process has been put into place to bring about restoration.

Eric Roberts of Moscow, and a student of architecture at UI, presented a petition for the record, which was signed by 350 students who support the effort to restore UI College of Art and Architecture.

Chelsie Hansen of Moscow, and graduate student in Art at UI, spoke to the Board about the need to restore the College of Art and Architecture at UI.



Terry Stevens of Clarkfork, Idaho, spoke to the Board in support of the coalition that is promoting the split of the Lake Pend Oreille district, noting that their goal is to provide quality education to the students in their district and their community. He asked that the Board approve the proposal so that it could go to the constituents for a vote in November.

**DEPARTMENT OF EDUCATION – Dr. Marilyn Howard**1. Letters of Authorization – Bob West

Dr. Howard introduced this item to the Board.

**M/S (Howard/Lewis): To approve the requests for Letters of Authorization as submitted by the Professional Standards Commission.** *Motion carried 4-0 (Stone and Agidius absent).*

2. Administrative Staff Allowance Waiver Requests to Meet Accreditation Standards – Tim Hill

**M/S (Howard/Lewis): To approve the requests by Moscow School District #281 and Shoshone Joint School District #312 for additional administrative staff to meet accreditation standards.** *Motion carried 5-0 (Agidius absent).*

3. Applications for Remote and Necessary Schools – Tim Hill

Dr. Howard noted that Arbon Elementary District is returning to remote and necessary status. Tim Hill of the State Department of Education staff explained that Pleasant Valley School District needed to have this status approved so that they have approval 90 days ahead of their annual meeting. This will allow them to take action at the meeting if it is necessary. In approving this item it allows for the provision of giving them additional funds in the upcoming year.

**M/S (Howard/Stone): To approve the requests by Arbon Elementary School District #383 and Pleasant Valley School District #364 to be recognized as remote and necessary.** *Motion carried unanimously.*

4. Proposal to Divide Lake Pend Oreille School District No. 84 – Dave Teater, Consultant for MGT of America

Dr. Howard said that the State Department of Education is bringing this item forward for consideration by the Board without recommendation one way or the other.

Superintendent Mark Berryhill, of the Lake Pend Oreille District, and Vicki Pfeifer, of the local board, spoke about the history of the proposal to split and the reasons for

considering a split again at this time. It was noted that a review of the proposal was conducted by MGT of America, an outside consulting firm.

Dave Teater, a consultant from MGT of America, reviewed the plan for the Board. He noted that he was a resident of Hayden, Idaho as well.

Ms. Pfeifer encouraged the Board to approve the proposal so that it could go to the voters of the district where they could then decide the issue by vote.

Board member Terrell noted that the survey mentioned by Ms. Hatley during the Open Forum had demonstrated a majority of people was not in favor of a school district split. Vicki Pfeifer said the proposal came from a community coalition from Clarkfork and Hope and is something that has been discussed for a number of years. The local board felt that it should be allowed to go through the process so that the voters can decide if this is what is best of the community.

When asked, Mr. Hill of the State Department staff said there are a number of elementary school districts that are small in student numbers. As far as the Hope/Clarkfork district qualifying for the status of "remote but necessary" funding, it is unlikely that would happen because none of the districts are remote.

Dr. Howard questioned whether or not there would be improved opportunity and benefits if a split takes place. President Hall expressed doubt that the advantages to students in the small schools would change as a result of a split so deconsolidation wouldn't bring additional benefits.

President Hall indicated that he was in receipt of a letter from Senator Keogh asking for the Board to support this proposal. The Board is in receipt of a petition signed by individuals from the Hope/Clarkfork Coalition also requesting the Board's support.

**M/S (Howard/Stone): To approve the proposal for division of Lake Pend Oreille School District No. 84.** *(This motion did not go forward because a substitute motion was made and passed.)*

Dr. Howard indicated she would vote against the proposal the State and encourage the districts and people in the communities to work together in this case to see the big picture.

Board member Terrell said he will vote against the proposal. Board member Stone will vote in favor of the proposal to give the people in the district local control and the opportunity to vote on the proposal themselves. Board member Agidius said one of his concerns is the local levies and the ability of the smaller districts to pass levies.

President Hall indicated that he hadn't heard anything that depicted how deconsolidation in this case has a compelling need or demonstrates benefits to the children of Idaho and the education system of Idaho. Therefore, he will vote against the proposal.

Board member Lewis indicated he struggled with the issue of local control where there isn't a compelling argument that it is ultimately better for the students. He said that it appeared the advantage of the small school is still there even without deconsolidation.

**Substitute Motion (Terrell/Agidius): To disapprove the proposal for division of the LPO School District No. 84.** *Motion carried 5-1 (Stone dissenting).*

#### 5. Basic Bus Specifications

Dr. Howard noted that this was an information item. She introduced Rod McKnight from the State Department of Education to briefly summarize this item. He noted that the State Department of Education is seeking the Board's support in moving forward with defining and specification writing of Idaho's "basic bus" prerequisite to seeking Request for Proposal.

#### 6. Approval of Negotiated Rulemaking

Dr. Howard introduced this item to the Board. Rod McKnight explained the need for negotiated rulemaking. The proposed rule will be brought back to the Board in June.

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

#### 7. Idaho Alternative Assessment

Dr. Howard introduced this item to update the Board on the Idaho Alternate Assessment (IAA) for special education students.

Ms. Compton and Dr. Stephen Elliott spoke to the Board about the development of the IAA and the research that was conducted in that regard. It was noted that the IAA meets the federal IDEA and NCLB requirements for students with disabilities participating in statewide accountability systems. The students taking this assessment have hugely varying skills. This assessment gives the teachers a structure for this population and their response to it has been positive.

President Hall congratulated Dr. Elliott and Ms. Compton for their work and their presentation.

**8. Healthy School Nutrition**

SeAnne Safaii and Mary Breckenridge, of State Department of Education, along with Kristin Ritzenthaler, of the Idaho Dairy Counsel, were introduced. They discussed child nutrition issues and how to promote issues for healthy children initiatives in the schools. They have developed some standards that will help bring these things into place as well as guidelines and model programs that administrators can follow. Currently, the team is working on a list of recommendations that lists healthy snacks, meals, activities and environments. She asked that the Board endorse the recommendations before they are sent out to all the schools in Idaho.

Dr. Howard said it is important to take into consideration the whole child. She noted the recommendations are an urging to school districts to embrace healthy school activities and encouraged the Board to support them.

**M/S (Howard/Terrell): To support the Recommendations for Healthy School Nutrition Environment for children.** *Motion carried unanimously.*

**9. Superintendent's Report – Dr. Marilyn Howard**

Dr. Howard reported on the following: the Education Commission of the States steering committee meeting last week hosted by Senator John Andreason; workshops on data-driven decision making conducted throughout the state for district personnel; reading academies, which this year targeted third grade teachers; and the National Academic Decathlon held in Boise.

Dr. Howard reported on the technical advisory committee for the ISAT and recommended that there be a sharing between the old advisory committee with the new advisory committee to assure that there is a smooth and credible transition.

**BUSINESS AFFAIRS & HUMAN RESOURCES Section II – Business Affairs  
(continued)****2. Idaho State University – Land Purchase University Place/Idaho Falls**

Dr. Bowen introduced the topic of this land purchase noting that UI Foundation is seeking to divest itself of the property and ISU is interested in acquiring it. Ken Prolo of ISU highlighted the scope of the property referring to a map that was provided to the Board in their agenda packets.

There was discussion about the leases currently in place with tenants of the Tinney Building, which is on the property. There is not a master lease nor do the current leases have change of control provisions, which means the new owner is not at liberty to cancel the current leases, some of which are for 99 years. UI lease in the Tinney

Building is for 10 years and goes until 2010. Brian Pritcher said the sale of the property would not change UI commitment to the students, the community and the programs in Idaho Falls.

President Hall asked for the information that was referenced in discussion (the appraisal, leases, MOU's, etc.) to be provided to SBOE staff for analysis so the Board can be more fully informed on this item.

**M/S (Lewis/ Terrell): To authorize Idaho State University to continue with negotiations to purchase land and improvements at University Place-Idaho Falls, including acquiring a current appraisal, and to take other steps as needed toward bringing about final terms of an agreement. Motion carried unanimously.**

### 3. University of Idaho – Water Center Sublease to WGI

Jeff Shinn introduced this item reviewing background information provided in the agenda packet. President Hall directed the focus of discussion to the specific sub-lease of approximately 4,250 square feet of retail space on the first floor of the Idaho Water Center to Washington Group International (WGI).

Laura Hubbard of UI reviewed key milestone dates indicating that substantial completion of the building is targeted for August 10, 2004, with the move in period being September – December 2004.

It was noted that leasing the space to WGI, under the terms presented, would allow UI to utilize facilities it otherwise would not have access to. Brian Pritcher of UI said the WGI lease is for classroom space and not office space.

The Board was directed to the impact statement in the agenda packet noting that the tenant improvements were listed there. Ms. Hubbard said that those costs were all paid up front.

President Hall asked about parking access and how this lease would impact the already limited parking. Ms. Hubbard said that the parking in that area is managed by Capitol Building Parking and wasn't able to say how the parking will be affected.

Board member Lewis apologized for the lack of time that was available for the presentation today and President Hall said the full presentation that was scheduled for today's meeting will be moved to the June Board agenda.

Mr. Terrell asked if the contract would come back to the Board before it is signed to assure that there is opportunity to review everything to make sure that it complies with the motion. President Hall said that legal counsel would review the contract and make sure that it is in order.

**M/S (Agidius/ Terrell): To authorize the University of Idaho to proceed with subleasing approximately 4,250 square feet of retail space on the first floor of the Idaho Water Center to Washington Group International (WGI). It is understood that WGI will pay all tenant improvement and furnishing costs in advance. WGI will pay for 50% of the lease payments and operating costs for the designated space; UI will pay the remaining 50% of costs. As part of this agreement, WGI will pay a total of \$1,500,500; UI will pay a total of \$485,000 over a 10-year term. Motion carried 5-1 (Hall dissenting).**

9. Develop a Request for Proposal for Audit Services Contract

The Audit Committee of the State Board of Education will have overall responsibility for the process, including development of the request for proposal, evaluating proposals received and selecting a contractor. The following ad hoc committee is expected to be directly responsible for the RFP development: State Division of Purchasing, Office of the State Board of Education, Board member Paul Agidius, Office of the State Controller, State Legislative Auditor and Office of the Attorney General.

Draft and final RFP documents will be shared with the audited institutions for review and comment. The Audit Committee, the individuals named above, and the audited institutions will evaluate proposals. Final selection of the external auditor will be made by the Audit Committee of the State Board of Education.

**M/S (Agidius/Stone): To initiate the “request for proposal” process for external audit services beginning with the Fiscal Year 2005 audit time period. Motion carried unanimously.**

11. Permanent Building Fund – FY 04 Alteration and Repair Projects

This item was deferred.

12. Idaho Promise Scholarship – Category B Award

Jeff Shinn introduced this item.

**M/S (Lewis/ Terrell): To approve the amount of the Idaho Promise Scholarship, Category B, to be \$250 per semester per student (\$500 annually) for those current recipients who maintain eligibility and for qualified first year entering students under the age of 22 in the academic year 2004-2005. Motion carried 5-0 (Stone abstained).**

**13. Agency / Institution Employee Compensation Plans**

Jeff Shinn discussed this item. He noted that all the compensation plans have been received by the Board office for review so that they can be forwarded to the Division of Financial Management and the Division of Human Resources.

President Hall asked if the agencies and institutions will all be able to meet the salary increase. It was noted that LCSC and UI will not be able to meet the 2% salary increase.

Board member Lewis asked what the trend was that allowed for the Division of Professional-Technical Education increase compared to that of the universities. Mr. Shinn said that some agencies will have more money in their operating funds due to eliminated positions, lay-offs, unfilled positions, etc. In this case, PTE had two FTE transferred to the Board Office, but the funding for those FTE was not eliminated by the Legislature. Mr. Shinn explained that in such cases, agencies could use these funds for one-time bonuses, among other things.

Mr. Dennis of the Division of Professional-Technical Education explained that most of the funding was transferred to operating costs and trustee benefits. Some of the money was used to address specific salary issues in the agency. Board member Lewis expressed concern about creating disparity between agencies under the Board's oversight. Mr. Dennis said that when the two positions were transferred to the Office of the State Board, the workload for remaining positions in the Division of Professional-Technical Education agency increased. And, the ability to give merit increases to compensate employees for the additional workloads they were carrying seemed appropriate. President Hall reiterated that this is not unusual nor is it out-of-the-ordinary for agencies to reward the hard work of their employees when they have the ability to do so.

**M/S (Stone/ Agidius): To approve the FY05 compensation plans for the agencies and institutions under the governance of the State Board of Education. *Motion carried 5-1 (Lewis dissenting).***

**14. Idaho School for the Deaf and the Blind – Contingency Reserve**

**M/S (Howard/Agidius): To approve the expenditure of funds from the Idaho School for the Deaf and the Blind contingency reserve fund in the following amounts: FY2004 -- \$35,000 for curriculum development materials; FY2005 -- \$80,000 for a pupil transportation bus. *Motion carried 5-1 (Terrell dissenting).***

**15. Boise State University – Health, Wellness & Counseling Center Project**

Jeff Shinn introduced this item. He noted that BSU intends to have further discussion with the staff of the Board on this item. President Hall asked if this item can be deferred until the June meeting. BSU said it would be its desire to proceed with the RFP process to seek architectural and design services and receive proposals. The original intent of this item is to sign an agreement with the architect. Board member Terrell indicated that at the June meeting BSU would need to justify the project to the Board before the RFP is awarded.

**M/S (Terrell/ Stone): To approve the request by Boise State University to proceed with the RFP process planning and design of the Health, Wellness and Counseling Services Center Project at a cost not to exceed \$932,025. (Motion was amended.)**

**Amended Motion (Terrell/Stone): To approve the request by Boise State University to proceed with the RFP process planning and design of the Health, Wellness and Counseling Services Center Project. Motion carried 5-0 (Howard absent).**

**Substitute motion (Lewis/Stone): To approve the request by Boise State University to proceed with the planning and design of the Health, Wellness and Counseling Services Center Project, at a cost not to exceed \$932,025. (Motion was withdrawn by Lewis/Stone).**

As a point of clarification on this item, Boise State University will return to the June meeting with a proposal along with the proposed contract for the Board to consider.

**BUSINESS AFFAIRS & HUMAN RESOURCES -- (continued)****Section II – Human Resources****1. Boise State University – Head Coach or Athletic Director Employment Contract (continued from Thursday's meeting)**

At Thursday's meeting (April 22), Jeff Shinn introduced this item to the Board. During the discussion it was agreed, by unanimous consent, to hold further discussion until Friday's meeting to allow BSU staff time to prepare a comparison document for the Board's review.

The comparison document was presented by Kevin Satterlee and distributed to the Board members for their review. He discussed with the Board members the substantive changes in the contract from the model contract. A number of points came out in discussion. President Hall directed the Board's legal counsel to make a note of the



comments being made about the contract and to assure that the requested changes were made.

**M/S (Hall /Terrell): To approve the proposed employment contract subject to modifications being made in this contract consistent with discussion today (April 23, 2004) with the Board including graduation on page 4 and specific language with regard to “not relied on legal counsel” and clarifying the language that appears to be in conflict regarding camps. Motion passed 5-0 (Howard absent).**

President Hall indicated the Board would enter into the contract upon the Board’s legal counsel being satisfied that BSU has met the modifications indicated.

### **OTHER AND NEW BUSINESS**

At this time President Hall thanked the staff of NIC on behalf of the Board for the services and hospitality provided. He went on to say that his experience as a member of the SBOE has been a positive one. He summarized some of the Board’s accomplishments during the time he has served and thanked the Board members for their dedication and commitment to raising the bar in education for Idaho’s students and citizens. He noted that change is never easy, but that the changes instituted by this Board have resulted in a higher level of confidence of parents throughout the state in Idaho’s education system.

President Hall said he had done some research into the disbanding the College of Art and Architecture at UI, noting that the institution did make a formal request for that in accordance with Board policy several years ago. However, given the high level of concern expressed on this issue, President Hall recommended a full review of that decision on the June meeting so that UI can make a complete presentation to the Board as well as provide the opportunity to the Foundation and students to express their views. He asked that anyone who had materials that needed to go into that presentation contact Karen Gustafson of the Board staff.

**By unanimous consent it was agreed to put this item on the June Board agenda, which will be held in Moscow at UI.**

### **ELECTION OF OFFICERS**

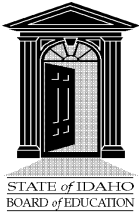
It was moved by Mr. Agidius and seconded by Mr. Terrell and carried (4-0, Howard absent) to elect Mr. Rod Lewis as President:

It was moved by Mr. Terrell and seconded by Mr. Hall and carried (4-0, Howard absent) to elect Mr. Laird Stone as Vice President.

It was moved by Mr. Hall and seconded by Mr. Agidius and carried (4-0, Howard absent) to elect Mr. Milford Terrell as Secretary.

At this time, President Lewis made concluding remarks. He thanked Mr. Hall for his service as the outgoing Board President. He noted some of the highlights, including the K-12 Standards Based Education System, the ISAT statewide testing, the statewide planning policy for higher education, the hiring of two university presidents, and the investigation into the University Place situation.

The meeting adjourned at 4:21 p.m.



**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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**DRAFT MINUTES  
STATE BOARD OF EDUCATION MEETING  
May 18-19, 2004  
Boise, Idaho**

A meeting of the Idaho State Board of Education was held on May 18-19, 2004 at the DoubleTree Club Hotel in Boise, Idaho. The meeting was called to order by President Rod Lewis. The following members were present:

Rod Lewis, President  
Milford Terrell, Secretary  
Paul Agidius  
Karen McGee

Laird Stone, Vice President  
Marilyn Howard, State Superintendent  
Blake Hall  
Susan Thilo

The Board entered into Executive Session immediately upon convening on May 18, 2004.

**EXECUTIVE SESSION**

**M/S (Hall/Terrell): 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.*

**EXECUTIVE SESSION**

On Wednesday, May 19 the Board re-convened and immediately returned to Executive Session.

**M/S (Hall/Agidius): 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.

An open meeting of the Board convened at 1:15 p.m. on May 19, 2004.

**BOARDWORK****1. Chief Executive Officer Appointments/Reappointments and Salaries**

**M/S (Hall/McGee): To approve the reappointment of Dr. Richard Bowen as President of Idaho State University effective July 1, 2004 through June 30, 2005 at a state salary of \$165,240.00. *Motion carried unanimously.***

**M/S (Agidius/Terrell): To approve the reappointment of Dr. Dene Thomas as President of Lewis-Clark State College effective July 1, 2004 through June 30, 2005 at a state salary of \$125,000.00 and to grant tenure as a member of the faculty at Lewis-Clark State College. *Motion carried unanimously.***

**M/S (Hall/McGee): To approve the reappointment of William Robertson as Interim President of Eastern Idaho Technical College effective July 1, 2004 at a state salary of \$98,700.00. *Motion carried unanimously.***

**M/S (Terrell/Agidius): To approve the reappointment of Dr. Robert Kustra as President of Boise State University effective July 1, 2004 through June 30, 2005 at a state salary of \$165,240.00. *Motion carried unanimously.***

**M/S (McGee/Stone): To approve the reappointment of Gary Stivers as Executive Director for the State Board of Education effective July 1, 2004 through June 30, 2005 at a state salary of \$107,100.00. *Motion carried unanimously.***

**2. Appointment of Vice President for Finance and Administration – University of Idaho**

**M/S (McGee/Agidius): To approve the appointment of Dr. Jay Kenton as Vice President for Finance and Administration of the University of Idaho effective July 1, 2004 through June 30, 2005 at a state salary of \$155,000.00. *Motion carried unanimously.***

**3. Designation of Idaho Virtual Academy as a Local Education Agency**

Randy Thompson of the Board staff presented this item to the Board for their consideration. He noted that in 2004, the Idaho legislature made a provision for the State Board of Education to identify those charter schools that shall be designated as

LEAs. He went on to discuss the matter of designating the Idaho Virtual Academy as an LEA.

Board member Hall commented on the matter of charter schools in general and the Idaho Virtual Academy in particular. He noted that the legislature (specifically, the Joint Finance and Appropriations Committee) appropriated a certain amount of money that was to go to the IDVA in FY2004.

**M/S (Hall/McGee): To approve that the Idaho Virtual Academy be designated as a Local Education Agency in the Idaho Public Education system effective July 1, 2003, and to direct the State Department of Education to distribute all appropriate federal funds to the IDVA by June 15, 2004, associated with this designation, as allowed by applicable state and federal law. Motion carried 7-1 (Howard dissenting).**

There was discussion about the effective date of July 1, 2003. Dr. Howard said she supported designating the Idaho Virtual Academy as an LEA. However, based on discussion with staff of the Legislative Service Office, she could not support the portion of the motion having to do with the retroactive designation. Board member Stone said he had the same concern and noted that the final part of the motion indicated that the distribution of funds has to be within the confines of state and federal law. Board member Hall went on to explain his understanding of the legislative intent. Board member McGee concurred with Board member Hall.

Board member Hall discussed the concerns that local districts have about their potential liability for public charter schools that will fall under the purview of the Charter School Commission or the Board, noting there was a need by the Board to be sensitive those concerns.

**M/S (Hall/Terrell): Move that the authority to designate public charter schools as LEAs be delegated to the Executive Director of the State Board of Education with instructions that, at this point, those be limited to public charter schools that are chartered or come under the purview of either the Commission or the SBOE.**

*Motion carried unanimously.*

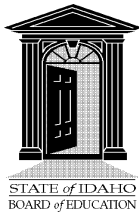
During discussion, Board member Hall clarified that his motion was restricted to those public charter schools that come under the Commission or the State Board.

## **EXECUTIVE SESSION**

**M/S (McGee/Agidius): 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 adjourned at 3:00 p.m.



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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**DRAFT 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  
Milford Terrell, Secretary  
Paul Agidius  
Karen McGee

Laird Stone, Vice President  
Marilyn Howard, State Superintendent  
Blake Hall  
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 was 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):**

<u>TITLE</u>	<u>AMOUNT</u>
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
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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**

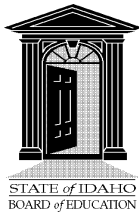
Dr. Howard presented her report to the Board. She mentioned the recently held Albertson Foundation "Creating High Performance Schools" conference and various achievements that were recognized as a result of this initiative. Dr. Howard noted that work has begun on the FY2006 budget request. In addition, 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.

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**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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**DRAFT MINUTES  
STATE BOARD OF EDUCATION  
SPECIAL MEETING**

**June 24, 2004**

**650 W. State St. Room 307**

**Boise, Idaho**

**11:30 am MT/10:30 am PT**

A special meeting of the Idaho State Board of Education was held on June 24, 2004 at 650 West State Street, Room 307, Boise, Idaho. The meeting was called to order at 11:30 a.m. and presided over by Board President Rod Lewis. The following members were present via teleconference or at the State Board of Education office:

Rod Lewis, President

Laird Stone, Vice President

Karen McGee

Marilyn Howard, State Superintendent

Milford Terrell, Secretary

Blake Hall

Sue Thilo

Absent: Paul Agidius

**1. Idaho State University Capital Project – Rendezvous Building**

Leo Herrman, Darrell Buffaloe, and Ken Prolo represented Idaho State University (ISU).

ISU needs Board approval to increase the cost for the Rendezvous Building. The March bids for Phase III came in \$8.8 million over budget. Plans changed and portions that were over budget were rebid. The new bids that were received brought the cost down to \$4.7 million over budget. It is the feeling of ISU that if they rebid the building again, the costs will be even higher. ISU is faced with two problems: (1) the rebids are about to expire; and (2) to get the rebid within budget; the building would be less than what was planned.

Board member Stone requested information on why certain items were not included in the construction manager's original estimate. Board President Lewis wanted to know the strength of the general contractor's first budget amount, and why ISU ended with such a variance. Mr. Buffaloe informed the Board that this is a construction manager project. A lot of this is related to steel and concrete costs that did not take into account

inflation. Mr. Buffaloe was asked whether he went back and challenged the rebids and whether any value engineering was done. He informed the Board that they talked to everyone.

Mr. Prolo was asked what would happen with the amortization costs and to give the Board a better sense of how ISU intends to pay the debt. Mr. Prolo informed the Board that, overall, the bond indebtedness for ISU is very low. Mr. Herrman informed the Board that there is funding from student fees to cover these costs, as well as for the purchase of the Idaho Falls property. ISU anticipates there should be over \$650,000 surplus to put toward the debt financing in FY05.

President Lewis asked how much of the project is bonded and how much is not. Mr. Herrman directed the Board to the information sheet showing from where the funds would come. He went on to ask if ISU is seeking approval of the building budget and of the change in the bonding revenue. Mr. Hermann stated that ISU is seeking approval to go forward with the construction, and bringing the funding and land purchase to the August meeting.

Board member Hall believes that one of the problems is that this is a construction management process. What responsibility does the construction manager have to the Board and to ISU for his erroneous estimates? ISU staff informed the Board that the architects also estimated the budget. Board member Hall asked if ISU has known about the over budget amounts, why did ISU not bring it to the Board at its most recent Board meeting? Mr. Buffaloe informed the Board that when the bids came back in March 2004, they had a reasonable chance it would come in under budget, but they did not find out that there would still be an over budget bid until June 17, 2004.

Darren Dealy, who is the architect, asked to speak to the Board. He informed the Board that what occurred between when the rebids were opened in March and now, is that there have been other costs that have increased due to the increased cost for materials because of gasoline/oil product increases.

Board member Hall also called attention to the fact that someone from ISU advised the media that the Board had accepted the newest bids. Mr. Buffaloe informed the Board that he had spoken with the media, for which President Bowen reprimanded him.

Board member Howard wanted clarification regarding "different design." Mr. Herrman informed the Board that there have been changes made to the design, because of the value engineering, and it is now the building ISU really wants. Board member Howard went on to ask for clarification on the estimates of over \$650,000 from housing and whether these the increases recently approved by the Board? Mr. Herrman stated this is ongoing, and that this is a very conservative figure.



Mr. Stivers informed the Board that if the current bids expire, the cost overruns will increase another \$2-\$3 million. ISU staff told the Board that if they go back to the rebids, these costs could go even higher due to the increases in gasoline/oil products. Board member Hall asked for empirical evidence to verify these statements.

Board member McGee asked Board member Terrell about whether bidders come back with lower bids. Board member Terrell declined to answer because of his involvement in the process.

Board President Lewis asked to what extent the June 2003 design change impacted the budget. When ISU put the budget together, there was a different concept of what the building would look like; and that's how the June 2003 redesign came about. In June 2003, ISU requested an increase of approximately \$1.5 million.

Board President Lewis wanted to know what additional net income of the \$650,000 comes from the student fee increase just approved. ISU staff stated this is not related to the increase in bonding, but to the increases in housing, which includes salaries and expenses. This is net income only in the fact that none of the bond payments have been subtracted from this amount, but it is dedicated to the housing bonds.

Board President Lewis asked for a timeline on a budget that would fit the current budget amount; whatever steps would need to be taken. ISU staff informed the Board that it would be at least until next year before the rebids would go out and it would not be the building ISU envisioned. ISU also told the Board that there are bids that will expire June 29, but there are other bids that will not expire for another 45 days.

Board member Hall asked if this was one of the projects approved by the Legislature, and it was. ISU staff told the Board that the Legislature approved money for the academic portion of the building, and other funding is necessary for the new student union building and the residential portion. If that portion of the building was only built, the entire building would need to be redesigned.

Mr. Nick Miller, of the firm Hawley Troxell Ennis & Hawley, LLP, reiterated that the Idaho State Building Authority (ISBA) only had the money that was appropriated, and so each institution would have to pick up the cost of any overages. The project was authorized by the Legislature, but only a certain amount of money was committed. ISBA retained the right to approve changes to the building in their oversight role and, as long as the development agreement with the institutions was upheld.

Board member McGee asked what would happen to the project if the Board does not approve this. Mr. Herrman informed the Board that if that were the case, a complete redesign would need to be made and the savings would not be that significant. Mr. Dealy stated there would be additional costs of \$500,000 to \$1 million before it ever hits the streets again for bid.

Board member Howard wants to know how ISU going to pay for this building. Is it true that they have enough in student fees. Mr. Herrman stated that that is the case. Dr. Howard then asked if, when the Board voted to increase student fees, was this building included. ISU staff stated it was not. Board President Lewis asked how much additional income will ISU expect to derive from the increase in housing costs approved by the Board in their regular June meeting? The increase was not factored into the Rendezvous Building. Board President Lewis asked the net dollar amount and percentage ISU could expect to receive. Jeff Shin stated the percentage was in the range of 3-4%. Mr. Herrman said he would be able to get those figures for the Board, but that he did not have them readily handy. He went on to state that the housing portion was informational only. Dr. Howard asked if there is some hidden agenda to build in some cushions in the student fees.

Board President Lewis went on to state that he is very troubled by this type of review and request for approval. He is also concerned by the idea that the budget amount might be going up.

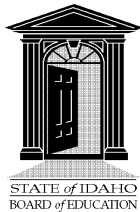
**M/S (Hall/Howard): To not approve the request by Idaho State University to increase the project budget for the Rendezvous Building from \$38,810,000 to \$43,510,000 and not go forward with the project at this time.** *A roll call vote was asked for. The motion failed by a 3-to-3 vote, with member Terrell abstaining (Hall, Howard and Lewis voted in the affirmative; Stone, Thilo and McGee voted in the negative).*

Board member Terrell requested that the questions asked during this meeting be answered in writing. Board member McGee asked that another special meeting be held to discuss this matter.

Board member Thilo requested further information be sent to the Board before the bids expire on June 29. Mr. Shinn offered to obtain more information for the Board members from ISU. Board member Thilo asked about the bonding capacity.

**M/S (Hall/Terrell): To adjourn the meeting.** *A roll call vote was called for. The motion passed by a 5-to-2 vote, McGee and Terrell dissenting.*

There being no further business, the meeting adjourned at 12:50 pm.

**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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**DRAFT MINUTES  
STATE BOARD OF EDUCATION MEETING  
July 12, 2004  
Len B. Jordan Building  
Boise, ID**

A special meeting of the Idaho State Board of Education was held on July 12, 2004. It originated from the basement conference room of the Len B. Jordan Building (650 West State Street) in Boise, Idaho. Board President Rod Lewis called the meeting to order at 9:00 a.m. A roll call was taken to identify the Board members who were present, because they were attending by teleconference.

**Members Present:**

Rod Lewis, President  
Milford Terrell, Secretary  
Blake Hall  
Sue Thilo

Laird Stone, Vice President  
Paul Agidius  
Karen McGee

**Members Absent:** Marilyn Howard, State Superintendent

At this point, Board staff referenced Idaho Code 67-2342, which does not require a Board member to be physically present at a teleconference if the Director or Chief Administrative Officer is physically present. This law took effect on July 1, 2004.

Board President Lewis directed everyone's attention to the single item on the agenda.

**1. Idaho State University Rendezvous Center**

Jeff Shinn, of the Board office, introduced the request by Idaho State University for authorization for a final increase to the Rendezvous Project budget from \$38,810,000 to \$43,510,000. He introduced representatives from Idaho State University and the Division of Public Works to speak on the various issues related to this item.

Board member Hall objected to addressing this item via telephone conference call. His objection was so noted by Board President Lewis.

When asked, President Bowen said Idaho State University had seriously considered reducing the size of the building rather than ask for increased funding. However, decreasing the size of the building would substantially change the function of the building and result in the project being withdrawn altogether from consideration.

Board member Hall indicated he had been led to believe that re-bids usually come in higher than original bids. President Bowen said that any comment made to that effect was incorrect. Larry Osgood, of the Division of Public Works, agreed and explained that re-bids often come in lower for a variety of reasons. He went on to say that when this project was re-bid, it was significantly impacted by the huge increase in the price of building materials.

Board member Thilo asked if the university was confident in its ability to meet the increased debt load should the project be approved. Ken Prolo said Idaho State University is able to support the increased debt load.

When asked, President Bowen said that even though Idaho State University has a list of projects it would like to see carried out, this project represents its top priority.

Board member Hall reiterated his concerns related to this project.

**M/S (Stone/Agidius): To approve an increase in the project budget for the Rendezvous Center at Idaho State University from \$38,810,000 to \$43,510,000. The additional costs will be the responsibility of Idaho State University and are expected to be funded from the offering of additional bonds under the University's General Revenue Bond System.** *Roll call vote was taken; motion passed 4-2 (Lewis and Hall dissenting; Terrell excused himself from voting due to a conflict of interest; Howard absent).*

Board member Terrell noted that he was excusing himself from the vote due to a conflict of interest.

**M/S (Stone/Agidius): To adjourn.** *Motion passed unanimously.*

The meeting adjourned at 9:44 a.m.