

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
January 13, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Rep. Nora Stephens
Douglas Richins, Secretary	Rep. Brent Goodfellow
Thomas Bielen	Jay B. Dansie
William Barton	Senator Pete Suazo
Douglas Durban	Merwin U. Stewart

Visitors:

Susie Adams, People Helping People
Lee D. Eaton, Mountain States Analytical
David Salisbury, The Sutherland Institute
Layne Meacham

Excused:

Melanie Hall
Fred Hunsaker
Senator Poulton
Steve Price

Conducted by Jim Kesler, Chairman

Mr. Kesler welcomed the board members and visitors to the meeting. Mr Kesler then invited board members Douglas Durban, Senator Pete Suazo and Merwin U. Stewart to introduce themselves and tell a little bit about their background so the other board members could get to know them. Mr. Kesler then provided an opportunity for the visitors to introduce themselves. The minutes of the previous meeting held December 17, 1997 were approved as presented following a motion from Mr. Dansie.

Mr. Kesler then turned the meeting over to David Salisbury of The Sutherland Institute who gave a presentation on privatization. The Sutherland Institute's mission is to advance solutions to public policy issues in Utah, especially solutions that rely on the voluntary private sector as opposed to always looking to government to solving problems. The Sutherland Institute sees privatization as an integral part of an effective and efficient government.

Mr. Kesler then turned the meeting over to the board members for a review of legislation affecting privatization. Representative Stephens indicated that she was not personally aware of any legislation that would affect privatization. Senator Suazo pointed out that the effects might be felt more through the appropriation process rather than by legislation.

Representative Goodfellow indicated that he would like the board to review some areas that have already been privatized to find out if in fact they are actually working. He mentioned the Utah State Fair, Workers Compensation, 800 MHZ and Construction of Buildings (design build). Mr. Richins suggested a presentation from the Salt Lake School Board on their experiences with the privatization of school busing. Mr. Durban suggested a review of the Utah State Bar and Senator Suazo suggested **MINUTES**

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a review of Youth Corrections. It was decided by the members that at least two of these suggested organizations

should be invited to the next board meeting to discuss their experiences, both pros and cons, of being privatized.

Mr. Kesler then turned the balance of the meeting over to the board to discuss potential privatization issues. The board members came up with eight potential privatization issues which are: health services, transit services, prisons (DUI offenders), foster care and adoption services, construction of buildings (design build), education (any aspect), toll roads and finish privatization of emissions, inspection and registration of the car.

Mr. Kesler than assigned Mr. Richins and Ms. Moulton the task of sending out a survey to the board members so they could rank the potential privatization issues.

Mr. Durbano asked that a discussion of the privatization guiding principles be placed on the agenda for the next Privatization Policy Board meeting. Mr. Richins agreed that it is important for this board to discuss those issue and to either refine them or embrace them.

At the conclusion of the meeting, Mr. Kesler asked the members if they would like to set a schedule for the next several meetings. Members decided to schedule a policy board meeting on the second Tuesday of every month through June at 9:00 am. The location to be announced prior to each meeting. The next board meeting was set for Tuesday, March 10, 1998 at 9:00 am. (Subsequently the next meeting was canceled.)

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
April 14, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Rep. Nora Stephens
Douglas Richins, Secretary	Douglas Durbano
Jay B. Dansie	Merwin U. Stewart
William Barton	Thomas Bielen
Senator Pete Suazo	

Visitors:

Donna Dahl, Utah State Fairpark
Kay Pope, Salt Lake City School District
Lee D. Eaton, Mountain States Analytical
Charles D. Brokopp, Utah Department of Health
Wayne Pierce, Utah Department of Health
David Salisbury, The Sutherland Institute
Robert Lockyer, Small Business Leg. Task Force

Excused:

Rep. Brent Goodfellow
Melanie Hall
Fred Hunsaker
Senator Poulton
Steve Price

Conducted by Jim Kesler, Chairman

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held January 13, 1998 were approved, with one correction, following a motion from Mr. Barton.

Donna Dahl - Utah State Fairpark

Mr. Kesler then turned the meeting over to Donna Dahl who gave a presentation on the Utah State Fairpark. Ms. Dahl indicated that the first mandate of the Fairpark is to provide the State Fair for the citizens of Utah.

About five years ago the Legislature put together a task force composed of legislators and business men. They visited several fairs across the country. One of them was Colorado State Fair, and another was New Mexico State Fair. Subsequently, the Utah State Fairpark was patterned after these examples and was made into a quasi state agency. It is interesting to note that both Colorado and New Mexico State Fairs have since gone bankrupt and are now under control of their State Legislature.

Ms. Dahl indicated that privatization has been a challenge for the Fairpark. They have to be **MINUTES**

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innovative looking for private enterprise to come in to help generate revenue. Currently, an attraction they are looking at is an aquarium and botanical garden from a company called AMS Planning and Research in Petaluma,

California. Another enhancement to the Fairpark is the prospects of the east-west light rail. If the light rail had a stop at the Fairpark, they could do a park and ride for downtown Salt Lake City and/or the Salt Lake International Airport. It would also provide additional walk through traffic for the aquarium and botanical garden.

USA Volleyball has indicated that they would like to build a volleyball facility on the Fairpark, however, they would use it for only nine months out of the year and they want the Fairpark to split the building costs. Unfortunately, the Fairpark would not recoup any money since they cannot charge the athletes for parking when they come to practice. They can only charge for major volleyball tournaments. Another idea suggested is to build a BMX bike ring and skate boarding area on the grounds. The Fairpark has also entertained the idea of putting a hotel on the White Ball Park.

The Fairpark has a unique location. It is a very valuable piece of State property that needs to be used at its highest optimal level, yet still maintain the integrity of the State Fair. On April 21, 1998 there will be a meeting held of private business people and planners from the state. They will be brainstorming to see if they can come up with a master business plan that looks at the types of facilities that would work at the Fairpark and the revenue that they would generate. Mr. Barton asked Ms. Dahl if she would notify the board of the results of the business meeting being held on April 21st.

Kay Pope - Salt Lake City School District

Mr. Kesler then turned the meeting over to Kay Pope to give a privatization status briefing on school busing for Salt Lake City School District (ATTACHMENT A). Their budget for running the bus program was \$1,714,899. Tran Spec's bid was \$1,218,735. There were two other private bidders, however their bids were more expensive than the cost for the district to do the busing itself. In addition, with Tran Spec purchasing the district's fleet it would infuse \$1,086,816 of capital into the Salt Lake School system. If you project that out over a five year period, Salt Lake School District would be looking at a savings close to \$3,832,643. Therefore, it appeared to be a good idea to privatize the school busing program.

Tran Spec at this time was successfully running the transportation services for the Schools for the Deaf & Blind. The problem Tran Spec ran into with Salt Lake City is that a school district is much more sophisticated and there is much more involved than running the transportation services for the Schools for the Deaf & Blind. The routes are shorter and much more complex and the timing is much tighter. Nevertheless, the main reason Tran Spec failed is because their local managers didn't seem to have a grasp on what it would take to run the program. To begin with Tran Spec reorganized all the established bus routes. Subsequently, when school started they were unable to pinpoint exactly where a student would get on a bus and just how many children would be riding each bus. Consequently, it was a real hit and miss situation which poisoned the public against them almost immediately. Another critical factor in the failure was that the bus drivers did not support the privatization effort, even after they were hired by Tran Spec.

Salt Lake is not the only district that has tried privatizing school busing in Utah. San Juan, Logan and **MINUTES UTAH STATE PRIVATIZATION POLICY BOARD April 14, 1998 Page 3**

part of Ogden have successfully privatized their school busing programs. Based upon their experience, Salt Lake School District didn't see any reason not to privatize. "I think it was just our particular situation, our proximity to television stations and Tran Spec's local management unwilling to make changes that were clearly needed," Kay Pope summarized.

In April, Tran Spec came to Salt Lake School District and indicated to them that they were not making a profit and could no longer render their service unless they could get more money. At that time the Salt Lake School District felt it was in their best interest to dissolve the relationship and take the busing program back. Since then, Salt Lake School District has regained public support and bus drivers support.

Lee Eaton - Mountain States Analytical

Mr. Kesler then turned time over to Douglas Later of Mountain States Analytical for a presentation on environmental testing laboratories. Lee Eaton, Vice President of Mountain States Analytical, notified the board at this time that Mr. Later was unable to attend the meeting due to a family emergency and that he [Mr. Eaton] would be stepping in for Mr. Later and make their presentation.

Mr. Eaton's purpose in coming before the board was to represent the interests of the Utah Independent Laboratory Association (ATTACHMENT B). They analyze soil and water samples by approved analytical chemistry methods to help clients achieve compliance with environmental regulations. Their industry is small in Utah and last year did an estimated volume of \$15,000,000 in revenue.

Mr. Eaton feels that independent labs are faced with government competition from several sources within the State. These include the State itself, Counties, Municipalities and Higher Education. This competition is especially burdensome on their industry because they are so small. For example, last year Mountain States Analytical did about \$3,000,000 of work. They paid about \$300,000 in state and local taxes including income tax, sales tax, property taxes and licenses and fees. In addition, their revenue was reduced because of government subsidized competition. Mr. Eaton argues that other industries do not have to compete with the government so they don't pay this hidden tax. Mr. Eaton estimates this tax cost the independent lab industry within Utah about \$6,000,000 last year. Therefore, Mr. Eaton argues that when society employs people in government to perform commercial activities, we are really increasing the burden of government on the economy. Government should regulate the work but not do the work. Case in point, waste disposal. The EPA requires Municipalities to test their waste when they put it in a municipal land fill. They have to test their ground water and soil contamination for metals that are dangerous to the public such as lead. Some of this testing is done by private labs and some is done by the State. Mr. Eaton would prefer that all the testing should go to private industry. Mr. Eaton continued saying, "we are properly certified by the State Laboratory to independently test these things, but it is a conflict of interest and self defeating for the State to certify us and also compete with us."

In closing, Mr. Eaton asked the board to advise state government, county government, municipal government and higher education to cease competing with them and to out-source their environmental test work to the private sector. He also encouraged the Board to introduce legislation that will prohibit the government from engaging in commercial activities. This legislation he feels will

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eliminate current conflicts of interest, reduce the burden of government on the citizens of Utah and improve Utah's free market economy thus contributing in every way to a wealthier society.

Charles Brokopp - Div. of Epidemiology and Laboratory Services

Mr. Kesler then turned time over to Charles Brokopp, the Director, Department of Health, Division of Epidemiology and Laboratory Services, to briefly present the other side of the argument.

The Utah code clearly describes the duties of the Utah Department of Health in great detail. Some of those duties include the establishment of laboratory services to support public health programs and medical services here in the state. It also spells out that the Department of Health is to establish and enforce standards for laboratory services that are provided by any laboratory in the state when the purpose of the service is to protect the public health. The code also indicates that the Department of Health is to establish and to operate programs necessary for the promotion and protection of the public health. One of the core functions of public health in every state in the nation is to provide essential laboratory services to support those programs. Every state has a public health lab. These labs provide some form of clinical testing to support publicly funded entities and to provide laboratory services for regulatory agencies of the state government.

The public health lab in Utah has a long tradition of meeting the needs of the citizens of the state. The State

laboratory receives many phone calls for lead testing. These requests are referred to an environmental testing laboratory near the site to be tested.

Regarding landfill monitoring, the State Lab does not do landfill monitoring testing. However, one exception to that rule would be if a county government is having some type of a problem. Generally problems will surface when samples are taken and are sent to a private laboratory for testing and another sample is sent to another laboratory and the results are inconsistent. Mr. Brokopp indicated that the State then makes their lab services available to help sort out the inconsistencies. Mr. Brokopp also indicated that the State Lab has never in any way actively gone out and promoted their services to anyone other than the state, federal or local entities that are supported by tax revenues. The mission for the public health laboratory here in Utah is to provide essential laboratory services to publicly funded entities.

Privatization Issues Survey

Mr. Kesler then turned time over to Mr. Richins, to give the results of the potential privatization issues survey (ATTACHMENT C). Mr. Kesler recommended that the Board pick low profile, doable projects to showcase what privatization can do for the people of Utah. Mr. Kesler then suggested forming subcommittees to gather information for the Privatization Policy Board. Mr. Kesler asked Mr. Barton to chair a subcommittee to study the transit services issue. Mr. Barton accepted and indicated he would contact Senator Poulton and see if he would like to participate on this transit services subcommittee. Mr. Kesler then volunteered to chair the subcommittee studying vehicle emissions and registration. Mr. Dansie volunteered to be on Mr. Kesler's subcommittee. Representative Stephens indicated that she would like to see a subcommittee do a study on private prisons for DUI offenders. Mr. Durbano volunteered to chair this subcommittee and Representative Stephens and Senator Suazo volunteered to participate on this subcommittee.

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Mr. Richins then briefly discussed per diem and mileage reimbursement for board members attending the policy board meetings.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, May 12. (Location to be announced at a later date.)

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
May 12, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Rep. Nora Stephens
Douglas Richins, Secretary	Douglas Durbano
Fred Hunsaker	Merwin U. Stewart
Thomas Bielen	Rep. Brent Goodfellow
Senator Pete Suazo	

Visitors:

Kevin Jacobs, Salt Lake County Assessor
Lee Gardner, Salt Lake County Assessor
Viola Bodrero, Utah State Tax Commission
Rod Marrelli, Utah State Tax Commission
Bart Blackstock, Dept. of Public Safety
Dave Beach, Dept. of Public Safety
David Salisbury, The Sutherland Institute
Robert Lockyer, Small Business Leg. Task Force

Excused:

William Barton
Jay B. Dansie
Steve Price

Not Present:

Melanie Hall
Senator Poulton

Conducted by Jim Kesler, Chairman

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held April 14, 1998 were approved following a motion from Rep. Stephens.

MOTOR VEHICLE LICENSING and REGISTRATION

Mr. Kesler invited Lee Gardner and Kevin Jacobs from Salt Lake County and Viola Bodrero and Rod Marrelli from the State Tax Commission to address the Board regarding motor vehicle licensing and registration.

Mr. Gardner said that just the day before Salt Lake County had elected to give the motor vehicle functions back to the state because the Legislature didn't allocate enough funds to cover costs that Salt Lake County incurs.

When Salt Lake County took over the motor vehicle licensing and registration they wanted to implement programs that would make it easier for the public to license and register their cars. Subsequently, three types of outsourcing or third party registration programs were implemented.

- 1) 18 different I/M stations in Salt Lake County were authorized to issue motor vehicle renewals. (The individual incurs an additional \$10.00 fee if this method is utilized.)
- 2) New car dealerships were authorized to supply license plates to their customers immediately upon the purchase of a new car.
- 3) The Independent Auto Dealers Association were authorized to handle plate and title functions.

Next a discussion regarding renewing registration by mail ensued. Renewal by mail is used only by 30-35% of people. The percentage is less outside of the Wasatch Front. Mr. Marrelli feels that to make the mail program

successful there needs to be an incentive/disincentive for people. For example, give a \$5.00 discount if an individual renews by mail or charge a \$5.00 fee if they do not.

Mr. Jacob visited Arizona last year and was impressed with the program they have implemented there. Essentially, Arizona has joined in a partnership with third party vendors to provide DMV services. This partnership decreases time spent in DMV offices, uses free market to provide customers with more choices, increases service availability, and the service is at no cost to the State.

Senator Suazo requested that the State Tax Commission recommend some changes that might be pursued by the Legislature and submit it to this committee so they can include in its annual report to the Governor's Office.

In conclusion, Mr. Jacobs stated that privatization is the natural direction to go. He believes it can work, that this is the time to do it and the citizens of Utah are ready for it. He encouraged the committee to do whatever it can to promote privatization in this area.

DRIVER LICENSING

Mr. Kesler feels that the same problems exist with driver licensing as it does with the licensing and registration of motor vehicles. Therefore, Mr. Kesler invited David Beach

and Bart Blackstock to address the board. Mr. Beach pointed out that they operate in a different environment than the State Tax Commission. Since 1951 the responsibility for driver licensing has fallen under the Department of Public Safety since this function is more law enforcing rather than a revenue source. However, they too have been implementing outsourcing in various areas:

- 1) Since 1990 much of the written and road testing are taking place in the public high schools.
2. The majority of the 40 thousand new 16 year old drivers each year go through driver education classes taught through the public high schools.
3. There are 22 commercial driving schools in the state that teach roughly 5,000 people yearly to drive. These schools are not allowed to do any written or road testing at this point due to the liability issue.
4. The Commercial Licensing program came into existence in 1989 from a federal initiative which established a separate tier of licensing that is referred to as CDL or Commercial Driver Licensing. Utah currently has 1.3 million drivers and between 65-70,000 of them are CDL holders. In the CDL program, the state has third party examiners, such as England Trucking Company, that conduct a majority of the testing.
5. The insurance verification database has been outsourced to a third party vendor.

Mr. Kesler invited Mr. Beach and Mr. Blackstock to come back in August to give a comparison of the way Arizona driver licensing operates in a mostly privatized fashion versus how Utah operates.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, June 9th at 9:00 am in Legislative Room 225.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
June 9, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Rep. Nora Stephens
Douglas Richins, Secretary	Douglas Durbano
Merwin U. Stewart	Fred Hunsaker
William Barton	Thomas Bielen
Rep. Brent Goodfellow	Steve Price
Senator L. Steven Poulton	

Visitors:

Senator Howard A. Stephenson
Ed Radke, Coalition for Accountable Government
Drew Chamberlain, Coalition for Accountable Government
F. Kenneth Olafson, Coalition for Accountable Government
Bernie R. Diamond, Management & Training Corp
Michael Murphy, Management & Training Corp
David Salisbury, The Sutherland Institute
Robert Lockyer, Small Business Leg. Task Force

Excused:

Jay B. Dansie
Senator Pete Suazo

Conducted by Jim Kesler, Chairman

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held May 12, 1998 were approved following a motion by Representative Goodfellow.

Senator Howard A. Stephenson - S.B. 180

Mr. Kesler then turned the meeting over to Senator Howard A. Stephenson who gave a brief presentation on Senate Bill 180. The purpose for this legislation was to create a Privatization Enterprise Review Commission and to statutorily prohibit certain types of government competition with the private sector. This Private Enterprise Review

Commission would have the legal authority to decide the legitimacy of a complaint and then to hear that complaint and would also have the ability to issue an order that is enforceable in the courts. The final version of the bill established two areas,

environmental testing services and public pharmacies, that would not allow government to compete with the private sector. Senator Stephenson intends to sponsor similar legislation in the coming year.

Representative Goodfellow stated that he would like to see what this current board could accomplish rather than introduce legislation to implement the proposed Privatization Enterprise Review Commission.

Mr. Barton expressed his approval of this bill stating that it sets forth the mechanics to look at unfair government competition issues. Mr. Barton then made a motion that the Privatization Policy Board should go on record as endorsing the "*general concept*" of S.B. 180 and that the final bill should be brought before the Board subject to a final review before receiving full endorsement. Mr. Durban o seconded the motion. The motion was approved with three opposing votes by Mr. Bielen, Mr. Hunsaker and Representative Goodfellow.

Douglas Durban o - Privatization of Prison Facilities

Because of time constraints Mr. Durban o's subcommittee presentation was postponed until Tuesday, August 11, 1998.

Bill Barton - Transit Services

Time was then turned to Mr. Barton for his subcommittee's presentation on Transit Services. Mr. Barton introduced Ken Olafson the past chairman for the Coalition for Accountable Government to discuss his study "A Case for Competitive Contracting of Public Transit Services." Mr. Olafson basic points are 1) operating costs per mile are escalating on a yearly basis; 2) costs per passenger per mile are escalating on a yearly basis; 3) income per passenger is minuscule in rate of increase per past year; and 4) the total passenger per mile is decreasing. Therefore, according to Mr. Olafson present day bottom-line profits attributed to UTA appear to exist only as a result of taxpayer funded subsidies. He recommends other avenues such as competitive contracting which can result in improved services with less subsidies by local and national taxpayers. Case in point, Miami, Florida has approximately 400 private passenger vans carrying 50,000 passengers a day without taxpayer subsidy. UTA uses approximately 280 (40ft.) buses to carry the same number of passengers in Salt Lake County with at least a \$23 million annual subsidy. Competitive contracting results in greatly improved public transit cost effectiveness because a competitive environment produces products for lower costs than a non-competitive environment. Competition is better than a monopoly. "The purpose for competitive contracting the supply of the UTA's services is not to question the integrity or impugn the services supplied by UTA. Instead, the purpose is to install a "market mechanism" into a monopolistic environment," stated Mr. Olafson.

Mr. Kesler closed the meeting with a reminder that there would be no Privatization Board meeting for the month of July. Meetings would resume August 11, 1998 at 9:00 a.m in room 225 of the State Capitol.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
August 11, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Rep. Nora Stephens
Douglas Richins, Secretary	Thomas Bielen
Merwin U. Stewart	Fred Hunsaker
William Barton	Jay B. Dansie
Senator Pete Suazo	Rep. Brent Goodfellow

Visitors:

Blair Evans, Dept. of Corrections
Dave Beach, Dept. of Public Safety
Skip Nielsen, Dept. of Public Safety
Bart Blackstock, Dept. of Public Safety
Ferris Groll, Dept. of Public Safety
Jimmie Stewart, Management & Training Corp.
Bernie R. Diamond, Management & Training Corp.
David Salisbury, The Sutherland Institute

Excused:

Douglas Durbano
Senator L. Steven Poulton
Steve Price

Conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held June 9, 1998 were approved following a motion by Mr. Stewart.

DRIVER LICENSING

Mr. Kesler then turned the meeting over to Mr. Beach, Mr. Blackstock and Mr. Nielsen to give a brief presentation on the report compiled by Mr. Nielsen entitled, *Privatization and Partnership initiatives in Arizona and Oregon Driver Licensing Agencies*. A copy of Mr. Nielsen's report is attached.

Representative Goodfellow made a motion that the Privatization Policy Board go on record as supporting the concept of, or at least exploring the possibility of preparing legislation to consolidate driver licensing and vehicle registration functions. The motion was seconded by Mr. Barton and was approved unanimously.

Mr. Barton then requested that Mr. Richins and Mr. Dansie research and identify any statutory or legal impediments that might negatively impact privatization of these areas including any statutes that may need to be amended. The results of this research would then give the Privatization Policy Board direction towards drafting a resolution to get this process moving.

MANAGEMENT & TRAINING CORPORATION

Mr. Kesler then turned the balance of the meeting over to Bernie R. Diamond, Sr. Vice President of Management & Training Corporation (MTC) of Ogden and Jimmy Stewart, warden of the Promontory facility in Draper, Utah operated by MTC. MTC was founded in December of 1980 by acquiring the business of the Education and Training Division of the Thiokol Corporation. The correction facility management has grown to become a major division of MTC. MTC operates a 424 bed correctional facility for California; a 450 bed substance abuse treatment facility for Arizona; a 1,700 bed state jail for Texas; a 48 bed juvenile facility for Garza County; and a 400 bed pre-release and return-to-custody facility for Utah.

In July 1994, Utah awarded MTC with a contract to build and operate a 400 bed pre-release, probation and parole violator center in Draper. The Promontory facility provides short-term programming in a secure setting for inmates who are serving the final 90 days of their sentence. Mr. Stewart pointed out that Promontory gives the inmates educational programs including substance abuse treatment, literacy and life skills courses, family counseling, individual and group therapy, employment searches and job skills assessment.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, September 8 at 9:00 am in Legislative Room 416.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
September 8, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Rep. Nora Stephens
Douglas Richins, Secretary	Thomas Bielen
Merwin U. Stewart	Fred Hunsaker
William Barton	Jay B. Dansie
Steve Price	Rep. Brent Goodfellow

Visitors:

Bob Ward, Standard Examiner
Michael Packard, Concerned Citizen

Excused:

Douglas Durbano
Senator Pete Suazo
Senator L. Steven Poulton

Conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held August 11, 1998 were approved following a motion by Mr. Stewart.

RESOLUTIONS

Mr. Kesler then turned the meeting over to Mr. Barton to review his two busing resolutions.

Mr. Barton distributed a resolution regarding UTA Bus Contracting to the Board.

Rep. Goodfellow pointed out that this resolution was too premature and that UTA should have an opportunity to come before the Board and present a response to Mr. Olafson, Coalition for Accountable Government, June 9, 1998 presentation. Mr. Barton agreed and withdrew his motion. Mr. Richins was then assigned to contact John English of UTA and invite him to the November meeting giving him an opportunity to respond to Mr. Olafson's presentation.

Resolution - Private Bus Contracting for Utah School Districts (Attachment A)

A motion was made by Mr. Barton and seconded by Rep. Stephens. This resolution passed with one dissenting vote by Mr. Bielen. Rep. Stephens asked that this resolution be sent to the State Office of Education and recommend that they distribute it to the school districts.

Mr. Richins then passed out a letter (Attachment B) from Kay Pope, Director of Purchasing for Salt Lake City School District, dealing with an issue that the Board needs to be aware of that may negatively impact the privatization of school busing. Salt Lake City School District has been in a litigation proceeding over the exemption of fuel tax for Tran Spec's use of fuel for the transportation of the District's children. The Tax Commission prevailed over the District on this issue. The School District feels that this decision places a significant impediment in the path of future privatization efforts.

STATUARY IMPEDIMENTS RESEARCH UPDATE

At the last board meeting Mr. Richins and Mr. Dansie were asked to investigate whether there were any statutory impediments to greater privatization in the areas of motor vehicle registration and driver license renewals. In response, Mr. Richins and Mr. Dansie explained how they sat down with the databases of all the state codes and rules and searched the sections that would apply to those particular agencies. Once having found these sections they researched to see if they could identify any statutory impediments. Their analysis concluded that there were none. However, they felt it best to write to Rod Marrelli at the State Tax Commission and also to Dave Beach at the Driver License Division and asked them if they would also review their statutes and identify any impediments they may have missed. Both Mr. Marrelli and Mr. Beach were invited to present their findings before the Board, or if more convenient, submit their findings in writing. These findings may be available at the next meeting.

RECOMMENDATIONS FOR ANNUAL REPORT

Mr. Kesler reminded the Board that in December he would like the reports from each committee to be ready to submit to the Governor. He recommended that each committee make their reports short and concise.

OTHER BUSINESS

Mr. Kesler then reviewed the presentations the Board has heard so far this year and asked if anyone would be opposed to hearing one more presentation dealing with either education or adoption services. Rep. Stephens said she would like to see the Board invite the State Adoption Advisory Council to come and give a report on their privatization efforts during the November privatization meeting.

Rep. Stephens than mentioned she had two items she wanted to point out. First, if the Board plans to study and possibly create a piece of legislation regarding Byron Fisher's recommendation for getting the Legislature to provide tax exemption for all privatization contracts, then the Board should not wait much longer. Second, by statute, when a state agency has a proposal to privatize part of the services that they render, they are required to present their plan to the Privatization Policy Board prior to implementation. Board members decided that a notification letter should go out to all agencies outlining this requirement. However, before sending out this letter, Rep. Stephens asked that all Board members study the current statue and Senator Howard Stephenson's proposed bill and think about ways to make this Board a more effective resource.

Michael Packard, Sandy City Engineer, asked permission to come before the Board. He testified about the challenges the Board would have in recommending privatization of UTA because of the dollars flowing from Washington D.C. rewarding an inefficient system.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, October 13 at 9:00 am in room 225 of the State Capitol.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
October 13, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Fred Hunsaker
Jay B. Dansie, Vice Chair	Rep. Nora Stephens
Douglas Richins, Secretary	Thomas Bielen
Merwin U. Stewart	Senator Pete Suazo
William Barton	Senator L. Steven Poulton

Visitors:

H.L. (Pete) Haun, Utah Dept. of Corrections
Gary Dalton, Utah Division of Youth Corrections, Dept. of Human Services
Bob Ward, Standard Examiner
David Salisbury, The Sutherland Institute

Excused:

Douglas Durbano
Steve Price
Rep. Brent Goodfellow

Conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held September 8, 1998 were approved following a motion by Mr. Hunsaker.

UTAH DEPARTMENT of CORRECTIONS

Mr. Kesler then turned the meeting over to H.L. (Pete) Haun, Executive Director of the Utah Department of Corrections to give a presentation on his Departments' efforts with privatization. "Corrections has been growing dramatically over the last 10 years. In an attempt to address this growth, Corrections has pursued a number of options, utilizing other public sector and private sector entities to provide needed services and housing (Attachment A). However, because of the nature of the offender population, some of this growth must remain under direct control of the state. Our plan for dealing with growth in the next five years combines increasing state operated services while also adding to our contracts with private and public organizations," stated Mr. Haun. Corrections has a three pronged approach: 1) Utilizing privatized correctional facilities; 2) Contracting with county jails; and 3) Increasing some state facilities.

UTAH DIVISION of YOUTH CORRECTIONS

Once Mr. Haun was finished with his presentation, Mr. Kesler turned the meeting over to

Gary Dalton, Director of the Utah Division of Youth Corrections to give his presentation on Youth Corrections' efforts with privatization. "Over the last five years Youth Corrections has experienced an increase in youth offender populations. This growth stems from public policies set out by the Legislature, Executive Branch and/or Judicial Branch rather than by population growth. Like Corrections, some of Youth Corrections growth must remain under direct control of the state. Consequently, no more than 25 to 30% of any project is privatized within Youth Corrections. Mr. Dalton distributed a one page handout **MINUTES**

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identifying the current private sector contracts Youth Corrections utilizes (Attachment B).

Mr. Dalton mentioned four points regarding Youth Corrections' experience with privatization: "1) Youth offenders are wards of the state and not of the private entities. Therefore, the state is always going to be liable for the kids. If something goes wrong with the private entity, it is our necks on the line; 2) Most of the time we have utilized a design build operation, private entities want their profit margin built in. Consequently, these automatic adjustments become problematic to the state; 3) There is no profit margin in smaller facilities. Youth Corrections would be happy to entertain privatizing the smaller facilities, but we have no private entities that want to bid; and 4) One major advantage of privatization is the federal government will reimburse us Medicaid dollars for privately run institutions whereas they won't reimburse state institutions." This federal reimbursement is a 6 to 8 million dollar revenue source for Youth Corrections every year.

STATUARY IMPEDIMENTS RESEARCH UPDATE

Mr. Richins distributed a letter from David Beach, Driver License Division, responding to the Board's request for a review of their statutes that may negatively impact privatization (Attachment C).

OTHER BUSINESS

The Board decided to invite Byron Fisher to the December Privatization Policy Board meeting to discuss his recommendation to the Legislature regarding giving an exemption from state taxes on all privatization contracts.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, November 10 at 9:00 am in room 414 of the State Capitol.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
November 10, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman	Rep. Nora Stephens
Douglas Richins, Secretary	Rep. Brent Goodfellow
William Barton	Senator Pete Suazo
Merwin U. Stewart	Senator L. Steven Poulton
Thomas Bielen	
Douglas Durbano	

Visitors:

Bob Ward, Standard Examiner
Bob Lockyer, Small Business Leg. Task Force
Drew Chamberlain, Coalition for Accountable Government
Les England, Adoption Advisory Council
Ken Montague, Utah Transit Authority
Steve Booth, UTA Local 382

Excused:

Jay B. Dansie, Vice Chair
Fred Hunsaker
Steve Price

Conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held October 13, 1998 were approved following a motion by Mr. Barton.

ADOPTION ADVISORY COUNCIL

Mr. Kesler then turned the meeting over to Les England, Chairman of the Adoption Advisory Council, to give a report on their research into privatization of adoptions. The Advisory Council was appointed by the Governor and the Division of Child & Family Services and is chartered to hear issues regarding foster care and adoption functions.

One issue Rep. Stephens brought before the Advisory Council was the issue of privatization of adoptions. The State of Kansas has privatized their entire foster care system for the last three years with great success. Under their contract, it costs the state of Kansas \$13,000 per adoption. Rep. Stephens wanted to adopt Kansas' plan, but wanted the Advisory Council to research into it further to see if it would work in Utah. The Advisory Council's preliminary conclusion, After six to eight months of research, is that the Kansas model is not going to work in the state of Utah. There are two reasons: 1) There are no private agencies here that are willing to undertake this type of a program or system regardless of the money that may be paid to them; and 2) The Division of Child & Family Services is actually doing a better job than 80% of the private agencies outside the state.

Consequently, the Advisory Council has adopted the approached towards this issue that "if it isn't broke don't fix it." Senator Poulton expressed some concern with the management of the Division of

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Child & Family Services. Mr. England agreed, "We don't think our system is completely broke, we think there are flaws in the Division of Child & Family Services, there are definitely some problems they have had and continue to have, but to throw the whole system out and then try to turn it over to the private sector is not financially feasible or practical since no private agencies are interested in taking it on. If a "gatekeeper" agency could be created, then the Adoption Advisory Council would support the concept of privatization."

Instead, of turning the entire foster care program over to the private sector, the Advisory Council has broken down the whole foster care system into three separate areas: 1) recruitment of appropriate families; 2) permanent placement; and 3) post-placement support. The Advisory Council is currently researching each of the three areas to determine if there are certain aspects that may be subject to and may be appropriate for the private sector. Mr. Richins questioned if the Advisory Council or the Division of Child & Family Services had ever contemplated experimenting with privatization of this function by trying to solicit proposals to provide adoption services for a smaller portion of the state. Mr. England indicated that they had not discussed this.

The Board decided to invite to the December meeting Robyn Arnold-Williams, Executive Director of Human Services, and Ken Patterson, Director of the Division of Child & Family Services, to address the issue of Privatization of Adoptions. (Note, both Ms. Arnold-Williams and Mr. Patterson are unable to attend the December meeting. Both would like to come to the following meeting to address this issue.)

UTAH TRANSIT AUTHORITY

Once Mr. England was finished with his presentation, Mr. Kesler turned the meeting over to Ken Montague, Finance Director for Utah Transit Authority to give his presentation on UTA's efforts with privatization. A copy of the history of privatization at UTA is attached.

"Private sector involvement in UTA programs will be continued whenever feasible and when consistent with UTA operational goals. Private sector participation will be encouraged in the provision of new and/or expanded transit services where cost effectiveness and consistency with UTA's Strategic Plan can be documented," said Mr. Montague.

OTHER BUSINESS

Mr. Kesler reminded the Board about their position papers. "Write a one page position paper and forget the legalities. Remember, our position is to give an objective view in a short report and from that we are going to accomplish something," said Mr. Kesler.

Mr. Richins brought to the Board's attention that the resolution for school busing passed in September's meeting contained inaccurate information. Logan School District, identified as currently using private busing, does not contract with the private sector, but contracts with another school district. Mr. Kesler asked Mr. Barton to correct the resolution and bring it before the Board at the December meeting.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, December 8 at 9:00 am in room 414 of the State Capitol.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
December 8, 1998
9:00 a.m.

Attendees:

Jim Kesler, Chairman

Douglas Durbano

Jay B. Dansie, Vice Chair
Douglas Richins, Secretary
William Barton
Thomas Bielen
Sharlene McFarland

Fred Hunsaker
Rep. Nora Stephens
Senator Pete Suazo
Senator L. Steven Poulton

Visitors:

Michael Hepner, Utah School Employees Association
David Winder, Utah Dept. of Community & Economic Development
M. Byron Fisher, Attorney at Law

Excused:

Rep. Brent Goodfellow
Merwin U. Stewart
Steve Price

Conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. Mr. Kesler invited the newest board member, Sharlene McFarland, to introduce herself. The minutes of the previous meeting held November 10, 1998 were approved, with one correction and an addition to the language, following a motion from Mr. Barton.

TAX IMPLICATIONS ON PRIVATIZATION EFFORTS - M. Byron Fisher

Mr. Kesler then turned the meeting over to M. Byron Fisher, a private attorney who represents Salt Lake School District, to discuss his litigation over the exemption of fuel tax purchased by Salt Lake School District and used by its former school busing contractor, Tran Spec. The Tax Commission ruled against the school district and required payment of tax on the fuel because Trans Spec "used" the fuel, even though the use was for a public purpose. A copy of the ruling was provided to the board in a previous meeting. Mr. Fisher feels that this decision places a significant impediment in the path of future privatization efforts. "We took that case to the Tax Commission in litigation because we wanted a decision as to what was intended as the term of "use" of fuel and whether it would be taxed. We knew what the decision would be, but by obtaining a decision in that form we can then propose to the Legislature to redefine the term "use" for the propose of avoiding one governmental entity paying taxes to another governmental entity when all the money comes from the same pot,"stated Mr. Fisher.

Mr. Durban o commented to the Board that if they are going to make a recommendation to the Legislature or the Governor the goal should be that a government agency should not tax another government agency. Mr Durban o made a motion that the Board should issue a statement or a short letter as part of their report that in order to allow privatization or to encourage privatization the Legislature should adopt the goal of fairness in taxation that a private entity providing the privatized function for a public entity would be taxed to the same degree for services rendered to a school district **MINUTES**

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or a governmental agency as that governmental agency would be taxed. Mr. Barton seconded Mr. Durban o's motion. Mr. Bielen commented that he was reluctant to consider Mr. Durban o's motion for three reasons. First, this is legislation that hasn't been run or sponsored yet; second, the burden of taxes has never been an issue in any of the

presentations heard before the Policy Board; and third, private entities are for profit. If taxes are waived for them wouldn't the state be subsidizing them? Mr. Barton agreed and suggested that the aim should be to get the resolution on the interim study list for next year. Mr. Kesler asked Mr. Durban o to write a short formal resolution and bring to the next meeting.

PROPOSED PRIVATIZATION OF THE DCED NATIONAL BUSINESS RECRUITMENT FUNCTION

Mr. Richins introduced David Winder, Executive Director of the Utah Dept. of Community & Economic Development who's purpose before the Board was to provide notice of his department's intent to privatize National Business Recruitment function within the Division of Business Development. Mr. Winder indicated that presently there are two organizations that recruit business to Utah; the Economic Development Corporation of Utah which is a public private partnership and is centralized in Salt Lake County and the National Business Recruitment Group within the Department of Community & Economic Development. The two groups duplicate each other and cause confusion among business out of state. Neither of these two organizations has enough critical mass, or funding to employ specialist in certain areas, such as in recruiting high technology firms. Mr. Winder feels that these problem would be solved if these two organizations were combined. A task force studied this problem and they recommended that these two organizations be combined under the Economic Development Corporation of Utah, though Mr. Winder indicated that the privatization would happen via a competitive Request for Proposal process and any firm could respond and be considered as the private contractor. He indicated that none of the affected employees were career service employees. The state employees would be loaned to the private contractor for a period of about 6 months, then they would be offered the option of either becoming employees of the private contractor, or perhaps be offered another position at DCED.

UTAH SCHOOL EMPLOYEES ASSOCIATION - SCHOOL BUSING

Michael Hepner, Executive Director of the Utah School Employees Association appeared before the board to comment on the Board's resolution regarding private bus contracting for school districts. His organization represents public school bus drivers. After Mr. Hepner reviewed the resolution he requested to meet with the board. He verbally presented his arguments against the resolution. Mr. Hepner's comments are contained in the attached letter, which he submitted to the board, dated December 7, 1998. (Attachment A)

RESOLUTIONS

Mr. Kesler then turned the meeting over to Mr. Barton to review his two busing resolutions.

Resolution - Private Bus Contracting for Utah School Districts (Attachment B)

Following discussion and rewording, a motion was made by Rep. Stephens and seconded by Mr. Durban to approve the resolution on attachment B on Private Bus Contracting for Utah School Districts and to replace this resolution with the one adopted on September 8, 1998. The resolution **MINUTES**

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was approved with two dissenting votes by Mr. Bielen and Ms. McFarland. Rep. Stephens asked that this resolution be sent to the State Office of Education and recommend that they distribute it to the school districts. Senator Suazo asked Mr. Richins to correspond with the school districts mentioned in the resolution who are currently contracting with private companies to provide their school bus services and ask them what their experience has been with private school bus contracting.

Resolution - UTA Bus Contracting (Attachment C)

A motion was made by Rep. Stephens and seconded by Mr. Durban to approve the resolution offered by

Mr. Barton regarding UTA Bus Contracting (found on Attachment C). This resolution passed with two dissenting votes by Mr. Bielen and Ms. McFarland. Rep. Stephens asked that this resolution be distributed to UTA board members.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Wednesday, January 13, 1999 at 9:00 am in room 5112 of the State Office Building. (Subsequently the time of the next meeting was changed to 10:30 a.m.)