

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Wednesday, January 13, 1999
10:30 a.m.
Approved March 9, 1999

Attendees:

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

Visitors:

David Winder, Utah Dept. of Community & Economic Development
Robyn Arnold-Williams, Utah Dept. of Human Services
Doug West, Utah Dept. of Human Services
Marty Shannon, Adoption Advisory Council
Frances Smith, DCFS Adoptions
D. Steadman, DCFS Adoptions
Jamee Roberts, People Helping People
Bob Lockyer, Small Business Leg. Task Force

Excused:

Fred Hunsaker
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 December 8, 1998 were approved following a motion by Mr. Stewart.

PROPOSED PRIVATIZATION OF THE DCED NATIONAL BUSINESS RECRUITMENT FUNCTION

At the December 8th Privatization Policy Board meeting, David Winder, Executive Director of the Utah Dept. of Community & Economic Development came before the Board to provide notice of his department's intent to privatize the National Business Recruitment function within the Division of Business Development. He gave a presentation and the Board asked questions and then excused Mr. Winder believing that the privatization efforts of the size he was proposing did not require Board approval. However, without Board approval the statute requires a 120 day waiting period before the Department may move ahead with it's privatization effort. Since Mr. Winder would like to move ahead sooner than 120 days Mr. Richins invited him back before the Board to seek approval. Following a brief discussion a motion was made by Mr. Barton and seconded by Mr. Stewart to approve Mr. Winder's privatization effort. The motion was approved with two dissenting votes by Mr. Bielen and Ms. McFarland.

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PRIVATIZATION OF ADOPTION SERVICES - Robyn Arnold-Williams

Mr. Kesler then turned the meeting over to Ms. Robyn Arnold-Williams, Executive Director of the Dept. of Human Services to discuss potential privatization of adoption services.

Background

Ms. Arnold-Williams began her presentation with a budget overview (ATTACHMENT A). The overall budget for the Department of Human Services for fiscal year 1999 is \$461,379,019. This amount includes the Division of Youth Corrections. During FY'99, the Department of Human Services will *contract out* nearly \$219,701,700. This amount is equal to approximately 48% of the department's total budget. Contracting and privatization is a very large issue for Human Services. Because Human Services had ventured into some fairly expansive contract privatization efforts, it was decided in 1997 that the Department would provide some privatization guidelines (ATTACHMENT B) for their agencies and for their own efforts as they began to look at additional functions that should be privatized.

Division of Child and Family Services Privatization Initiatives

During this past year 98-99 the Division has implemented two major privatization efforts: 1) The Foster Care Foundation which was authorized by the Legislature last year authorizing the Division to privatize and contract out for the recruitment, training and support of foster parents; and 2) The Christmas Box Foundation in conjunction with the author, Richard Paul Evans, to develop children shelters throughout the state.

The Kansas Model

On October 1, 1996, Kansas contracted all adoption services to a single statewide private agency whose primary business is to find homes for children in need of permanent families. The contract agency is responsible for the recruitment and training of prospective families and for preparation and placement of children into those homes. Rochelle Chronister, Secretary of the Kansas Department of Social & Rehabilitation Services, indicated to Ms. Arnold-Williams that if they had it to do over again they would not have gone as far and as fast as they did. Privatizing all of child welfare at one time is not something they would do again. They have experienced significant cost over runs in their foster care out of home care privatization effort. Of the three major areas Kansas privatized, adoption has been the most successful although not as successful as they had hoped.

Human Services Current Plans

Ms. Arnold-Williams plans to take all the data and recommendations from the Adoption Advisory Council and The Board of Child and Family Services and put the Department's privatization guidelines to the test. She expects this analysis to be complete within three to four months, and once done, she indicated she would like to come back before the Board with a report containing specific recommendations from the Department as to which functions of adoptions should be privatized.

Personal Philosophy

"This is an issue I think we should look at. I admit that I am not ready to privatize foster care and other aspects of child welfare with respect to that. However, I believe that privatizing adoptions is one area that does hold potential. So, I am entering into this discussion voluntarily and with a very open mind. I am also willing to say that if after all the analysis is complete and it does not look like **UTAH STATE**

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privatization is in the children's best interest, then I am not going to take that position," concluded Ms. Arnold-Williams. (Note: Ms. Arnold-Williams is tentatively scheduled to return before the Board May 11, 1999 with

results of her Department's analysis.)

FAIRNESS and TAXATION RESOLUTION - Douglas Durban o

Mr. Kesler then turned the meeting over to Mr. Durban o to review his resolution.

Resolution - Fairness and Taxation (ATTACHMENT C)

Following discussion and rewording, a motion was made by Mr. Durban o and seconded by Mr. Barton to approve the resolution. The resolution was approved with two dissenting votes by Mr. Bielen and Ms. McFarland. Board members determined that this resolution should be distributed to the Governor's Office, Leg. Management Committee, Chairs of Revenue and Taxation Committee, Office of Leg. Research and Office of Fiscal Analyst.

MOTOR VEHICLE LICENSING & REGISTRATION POSITION PAPER - Jim Kesler

Mr. Kesler handed out his position paper and asked the members to read and critique it (ATTACHMENT D). Following a brief discussion on the format and some rewording Mr. Kesler invited the members to take the position paper home and continue to review it and bring it back to the next meeting for further discussion.

BOARD POLICY REGARDING PRESS RELEASES

Mr. Kesler turned the meeting over to Mr. Barton to discuss press releases. Mr. Barton feels that any positive thing the Board does, such as passing resolutions, should be issued in a press release. Mr. Kesler agreed, but cautioned that a couple of the resolutions that were passed recently needed to be amended due to language or inaccurate information. Rep. Stephens asked if the Board had access to anyone with expertise in writing resolutions and press releases. Mr. Stewart said he felt it would be in the best interest of the Board to work through the Governor's office since these resolutions may become a public issue. Board members decided that Mr. Kesler and Mr. Richins would meet with Vicki Varela, Deputy Chief of Staff, to discuss how to handle press releases.

Mr. Kesler closed the meeting with a reminder that the Board would not meet during the month of February. Instead, the next Privatization Policy Board meeting will be held on Tuesday, March 9, at 9:00 a.m. in room 225 of the State Capitol.

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TASK	PERSON RESPONSIBLE	DUE DATE
Send <i>Private Bus Contracting for Utah School Districts Resolution</i> to State Office of Education and recommend that they distribute it to the school districts. Also in the letter invite their response.	Richins	
Correspond with San Juan School District, Ogden School District and Utah Schools for the Deaf and the Blind and ask them what their experience has been with private school bus contracting.	Richins	
Send <i>UTA Bus Contracting Resolution</i> to UTA board members. Also in the letter invite their response.	Richins	
Send <i>Fairness and Taxation Resolution</i> to Governor's Office, Leg. Management Committee, Chairs of Revenue and Taxation Committee, Office of Leg. Research and Office of Fiscal Analyst.	Richins	
Meet with Vicki Varela to discuss how to handle press releases.	Kesler & Richins	
Critique Jim Kesler's Position Paper.	Board Members	March 13
Invite Robyn Arnold-Williams back to the May 11 th Board meeting to discuss the results of her Department's adoption analysis.		

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, March 9, 1999
9:00 a.m.
Approved April 13, 1999

Attendees:

Jim Kesler, Chairman	Douglas Durbano
Jay B. Dansie, Vice Chair	Fred Hunsaker
Douglas Richins, Secretary	Steve Price
William Barton	Sharlene McFarland
Thomas Bielen	

Visitor:

Bob Lockyer, Small Business Leg. Task Force

Excused:

Merwin U. Stewart
Rep. Nora Stephens
Rep. Brent Goodfellow
Senator Pete Suazo
Senator L. Steven Poulton

Meeting conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitor to the meeting. The minutes of the previous meeting held January 13, 1999 were approved following a motion by Mr. Barton.

REPORT ON SB49 - Douglas Richins

Mr. Kesler turned the meeting over to Mr. Richins to give a report on Senate Bill 49, Unfair Competition Act. Mr. Richins indicated that the original bill was substituted with revised bills. The Third Substitute SB49 did not pass the Senate. Mr. Richins highlighted to the Board a significant policy statement articulated within SB49. It was found on line 150 of the Third Substitute.

(1) It is the general policy of the state that a government agency or institutions of higher education should not begin or maintain any commercial activity to provide goods or services for the use of other governmental agencies or institutions of higher education or for public use if such goods or services can be procured from private enterprise through ordinary business channels.

Mr. Richins pointed out that this policy statement would have had a significant impact. The policy statement is one that Mr. Richins believes has not existed in statute before. It would have the effect of discouraging intergovernmental cooperation and would focus the procurement of those services upon the private sector.

Further discussion of SB49 centered around the concept of unfair government competition. Mr. Lockyer, Salt Lake Chamber of Commerce Small Business Legislative Task Force, indicated that their highest priority was to see that SB49 passed. He made known there are numerous private businesses, from

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pharmacies to mining engineer consultants, furious that the legislation didn't pass. "A lot of businesses are threatened

with going out of business due to government competition. Analytical Laboratories are predicting a 30% loss this year due to government competition,” said Mr. Lockyer. Mr. Lockyer asked the Board to please study and work out some kind of an accord with these industries. The Board agreed with Mr. Lockyer that the three industries that had lobbied so hard in favor of SB49, pharmacies, environmental testing laboratories and engineering groups, have some legitimate issues that should be heard. Mr.

Richins mentioned that he had been contacted by a woman from an engineering group in Cedar City who, if SB49 failed, would like to come before the Board and articulate issues relative to what she perceives as unfair competition. A motion was made by Mr. Barton requesting that the Board develop a policy statement relative to unfair competition. The motion was seconded by Mr. Hunsaker and passed unanimously.

“This Board is merely advisory, a lot of the good this Board can accomplish is just in the discussion phase bringing people together helping them conceptualize privatization and see that maybe this is an avenue where they can assist their agency in being more effective,” said Mr. Richins.

PRIVATE PRISON UPDATE - Douglas Richins

Mr. Kesler once again turned the meeting over to Mr. Richins this time for a brief update on the private prison. “Currently a Request for Proposal is out on the street and the due date for the final submission is March 16. This proposal is for a private company to site, design, construct and then operate a five hundred bed medium security prison facility for the Dept. of Corrections. It is a two-step RFP process, the first step was to identify and establish the field of qualified contractor teams. The offerors have been narrowed down to four teams: MTC, Wackenhut Corp., Cornell Corrections Corp., and Corrections Corp. of America. I’ll be happy to keep the Board apprised of its progress,” said Mr. Richins.

REVIEW and FINALIZE ANNUAL REPORT

Mr. Kesler then turned the meeting over to the board members to discuss the Board’s annual report. After some discussion a motion was made by Mr. Durban and seconded by Mr. Barton to adopt Mr. Kesler’s position paper. Mr. Dansie expressed concern that each position paper should be simple and straight forward. He suggested that all papers should be structured in the same format as Mr. Kesler’s utilizing the heading’s *Problems Observed, Possible Solutions, Conclusion, and Reference & Testimony*.

REVIEW PRIORITIES

Board members decided to forward this agenda item to the April meeting.

PRESS RELEASE POLICY - Douglas Richins & Jim Kesler

On March 8, Mr. Kesler and Mr. Richins met with Vicki Varela of the Governor’s Office to discuss press releases. Mr. Kesler expressed concern whether the Legislature really anticipated that the Privatization Board would be issuing press releases given it is an advisory board only to the Governor and the Legislature. After some discussion, it was concluded that it is *not* the role of the Privatization Board to issue press releases. Therefore, as a normal course of practice, the Board will not issue press releases on positions that it takes.

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Mr. Barton expressed concern that the Privatization Board’s function needs to be announced to the private sector. Board members agreed. Mr. Kesler volunteered to contact Mr. Lockyer of the SL Chamber and have him include an announcement in their newsletter. Mr. Kesler asked Mr. Durban to contact the Davis Chamber of Commerce and Mr. Barton to contact the South Valley Coalition of Chambers and notify them of the Board’s meeting schedule.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, April 13, 1999, at 9:00 a.m. in room 225 of the State Capitol.

TASK	PERSON RESPONSIBLE	DUE DATE
Contact Mr. Lockyer of the SL Chamber of Commerce and ask him to include an announcement regarding the Privatization Board in their next newsletter.	Kesler	
Contact the Davis Chamber of Commerce	Durban	
Contact the South Valley Coalition of Chambers	Barton	
Write a letter to J. David Barba, Colorado State Auditor, for permission to use some of his language contained in Colorado's Privatization Assessment Workbook.	Richins	

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, April 13, 1999
9:00 a.m.
Approved May 11, 1999

Attendees:

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

Visitor:

Senator Howard Stephenson
Bob Richards, SL Chamber Small Business Leg. Task Force

Excused:

Steve Price
Senator L. Steven Poulton

Meeting conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. Bob Richards, SL Chamber Small Business Leg. Task Force, introduced himself as Bob Lockyer's replacement. The minutes of the previous meeting held March 9, 1999, were approved following a motion by Mr. Barton.

Overview of S.B. 49, *Unfair Public Competition Act* - Senator Stephenson

Mr. Kesler turned the meeting over to Senator Stephenson to give an overview of his S.B.49, *Unfair Public Competition Act*. "The failure of S.B.49 to pass was due to several different factors. This year certain groups became very mobilized against the bill partly because the bill specifically prohibited government from competing with the private sector in three areas: pharmacies, engineering consulting, and environmental testing services," said Senator Stephenson.

In Senator Stephenson's opinion the most important part of S.B.49 was changing the Privatization Policy Board to a Commission with actual authority to take legal action when those services that were prohibited by the Legislature continue to be provided by state or local governments. The new Commission would also be charged to hear complaints from the private sector and then make recommendations to the Legislature regarding what areas ought to be prohibited.

Senator Stephenson indicated that if he were to bring the bill again, he would simply change the Privatization Policy Board to a Commission and not prohibit any services or competition. Senator Stephenson encouraged Board members to urge the Legislature, through its interim study, to look at legislation that would expand the Policy Board's authority. Senator Stephenson feels that he should not sponsor this bill again, suggesting instead that the sponsor should be a Legislator on the Business, Labor and Economic Development Committee.

Rep. Stephens indicated that she felt the Board should send a letter to the Legislative Management Committee to encourage studying enhanced powers for the Privatization Policy Board. After some discussion, Rep. Stephens made a motion that she would draft the letter in behalf of the Board to the Legislative Management Committee expressing the Policy Board's desire to have this issue studied by the Legislature. (Letter Attached.) The motion was seconded by Mr. Durbano and passed unanimously.

Senator Stephenson informed the Board that this issue is Item #93, "Unfair competition to study options for dealing with unfair government competition with the private sector," on the master study list. In the past the committee that has considered this legislation was Business, Labor and Economic Development. On April 21, 1999, Legislative committees will have the opportunity to look at and request to study any items even though they are grouped by subject area. If there are duplicate requests for study the Legislative Management Committee will determine which committee should study the item.

Privatization Policy Board's Annual Report

Ms. Moulton passed out a draft of the annual report. Senator Suazo made a motion that Board members individually review the draft and that it be placed on May's agenda for editing and finalization. The motion was seconded by Mr. Dansie and passed unanimously.

Other Business

The Board had a discussion concerning Utah Correctional Industries and subsequently decided to review if UCI is unfairly competing with the private sector.

Rep. Stephens pointed out that many government agencies are contracting out parts of their services but the Privatization Policy Board is being left out of the process. By statute, government agencies are required to come before the Board for approval if the contract is expending more than \$2,000,000 of their budget in a fiscal year. Senator Suazo asked if there was anyway to quantify how much privatization is taking place in government agencies? Rep. Stephens made a motion that a letter be sent to department heads reminding them of the Board's role and the statute requiring them to seek the Board's approval if they are going to privatize any function greater than \$2,000,000. Also included in the letter is a request for information from department heads outlining the level of service they currently have privatized and the level of product that is purchased. The motion was seconded by Senator Suazo and passed unanimously.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, May 11, 1999, at 9:00 a.m. in room 225 of the State Capitol.

TASK	PERSON RESPONSIBLE	DATE DUE
Draft a letter in behalf of the Policy Board to the Legislative Management Committee expressing the Board's desire to have Item #93 be privatized for studied by the Legislature.	Rep. Stephens	Finished
Send a letter to department heads reminding them of the Board's role and the statute requiring them to seek the Board's approval if they are going to privatize any function greater than \$2,000,000. Also included in the letter is a request for information from department heads outlining the level of service they currently have privatized and the level of product that is purchased.	Mr. Richins	

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, May 11, 1999
9:00 a.m.

Attendees:

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

Excused:

Steve Price
Senator L. Steven Poulton

Visitor:

Shaun Heaton, Bonneville Asphalt & Repair

Meeting conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitor to the meeting. The minutes of the previous meeting held April 13, 1999 were approved following a motion by Rep. Goodfellow.

Unfair Government Competition Issue - Shaun Heaton

Mr. Kesler turned the meeting over to Shaun Heaton owner of Bonneville Asphalt & Repair for a brief presentation to articulate issues relative to what he perceives as unfair competition. "UDOT over the past twenty years has reduced to zero the number of cracksealing contracts it lets out to the private industry and has decided to do it all in-house," said Mr. Heaton. According to Mr. Heaton the private crackseal industry has been extremely hurt in Utah because of the continual move among public entities like counties and cities following UDOT's lead and buying their own equipment to do bring cracksealing operations in-house. "We see small cities like Monticello and Washington City buy \$25,000 in cracksealing equipment only to use it for a few days a year," said Mr. Heaton. Orem and Ogden have done careful cost studies and determined that it is not financially feasible for them to make such expenditures and subsequently they continue to contract out cracksealing operations. Mr. Heaton has discussed this issue with David Miles, UDOT Operations. In Feb. he presented his concerns to UDOT Commissioners and asked them for the opportunity to bid against UDOT or for them to release more jobs to the private sector. UDOT Price District did have a bid out for cracksealing. But they canceled it because the funds were transferred to the I-15 project. Mr. Heaton feels that his concerns have fallen on deaf ears.

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Mr. Heaton is also concerned that UCI is being allowed to compete with private businesses to do cracksealing on state facilities for DFCM and even for UDOT. When approaching UCI about their "prisoners for hire" program, they seem to make it so restrictive and unfair by insisting on three months wages in advance. "I understand there is a statute that provides preference for UCI. However, the use of UCI should not be to the detriment of private business," concluded Mr. Heaton.

Senator Sauzo pointed out that the tax payer have another perspective with regard to UCI. "The tax payer expects the best job at the lowest price. They are happy to see the UCI workers out there for a couple reasons; cheaper labor and the debt being payed to society. But we do need to be careful not to cross over into direct competition with the private sector unfairly," said Senator Suazo.

Edit and Finalize Annual Report

In the last meeting a draft copy of the annual report was distributed so members could take a month to digest it and make changes to it. Following a discussion and some editing, a motion was made by Senator Suazo and seconded by Rep. Stephens to approve the language in Mr. Kesler's *Motor Vehicle Licensing and Registration* summary. The second motion was made by Senator Suazo and seconded by Mr. Durbano to approve the language in Mr. Barton's *School Bus Transportation* and *Utah Transit Authority Contracting* summaries. The third motion was made by Rep. Stephens and seconded by Mr. Hunsaker to approve the language in Rep. Stephens' *Privatization of State Adoption Services* summary. And the final motion was made by Mr. Durbano and seconded by Senator Suazo to approve the language in Mr. Durbano's *Fairness in Taxation* summary. All motions passed unanimously. Mr. Bielen expressed concern that although he is approving the language in these summaries they do contain resolutions that he voted against. Mr. Richins indicated that board meetings and minutes would be referenced at the end of each summary and they would also be available on the Internet for public record.

Priorities for Future Meetings

Mr. Richins pointed out that board members need to identify issues that they want to study for the 1999-2000 fiscal year. Prior to the June meeting, Ms. Moulton will email board members requesting them to identify issues that they would like to study. This list of study issues will then be compiled for the June meeting.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, June 8, 1999, at 9:00 a.m. in room 225 of the State Capitol.

TASK	PERSON RESPONSIBLE	DATE DUE
None Assigned		

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, June 8, 1999
9:00 a.m.

Attendees:

Jim Kesler, Chairman
Jay B. Dansie, Vice Chair
Douglas Richins, Secretary
William Barton
Rep. Nora Stephens
Steve Price

Excused:

Douglas Durbano
Fred Hunsaker
Merwin U. Stewart
Rep. Brent Goodfellow
Senator L. Steven Poulton
Senator Pete Suazo
Sharlene McFarland
Thomas Bielen

Visitors:

Corrie Lynne Player, Tahoma Companies, Inc.
Gary Player, Tahoma Companies, Inc.
Cheryl Cope, Tahoma Companies, Inc.
Robin Arnold-Williams, Utah Dept. of Human Services
Larry Becknell, Consulting Engineers Council of Utah
Craig Peterson, Consulting Engineers Council of Utah

Meeting conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. Because a quorum was not present, the review of the minutes of the previous meeting held May 11, 1999 was delayed until the next meeting.

Privatization of Adoption Services - Robin Arnold-Williams

Mr. Kesler turned the meeting over to Robin Arnold-Williams, Executive Director of Human Services, for an update on privatization of adoption services since her last visit with the board on January 13, 1999.

Centralized Contract Monitoring

Since the Department of Human Services contracts out nearly 300 million dollars in federal and state funds to more than eighteen hundred contracts throughout the year, the department is embarking on an initiative to clearly define the role of the department, the role of the divisions and implementing a centralized contract monitoring system. A complete summary of Human Services "*Goals for Centralized Contract Monitoring*" is attached.

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Adoption Policy

The adoption policy has been reviewed and revised by the Board of Family and Child Services. It is not without controversy. One provision that is most controversial is verification that all adults residing in the household are legally related to the proposed parent or parents by blood or legal marriage. The focus of this provision is on same sex couples but in reality it would also mean any unrelated adult, such as a live-in nanny, would preclude the family from adoption. Several national organizations as well as state organizations have threatened legal action.

RFP

The department has issued an RFP for the recruitment and assessment of adoptive families for children in the custody of the State. Assessments would take place in Salt Lake, Weber, Davis and Utah Counties and may on occasion take place throughout the rest of the state. Ms. Arnold-Williams indicated that she would keep the board informed of the outcome of this RFP.

Unify the Home Study

Currently there are separate home studies for prospective foster parents and prospective adoptive parents. Since 60 percent of adoptions that occur with kids in the custody of the State are by their foster parents, it doesn't make sense to have the foster parents go through another process. The merging of these two home studies is near completion and will result in making it easier for families that want to make the transition from foster to adoptive to do so without having to go through a whole new process.

Foster Care Foundation

The Foster Care Foundation was endorsed by the 1998 Legislature authorizing the Department of Human Services to privatize and contract out for the recruitment, training and retention of foster families. The Foster Care Foundation has raised more than two million dollars in private funds to provide it with the firm basis to start. The Foundation has opened its doors, has a board of directors, has hired an executive director and staff (many of whom worked with The Department of Human Services). The Foundation will begin a major recruitment training and retention effort for foster families later this summer. Staff from Child and Family Services will be working with the Foundation to do a joint recruitment.

Post Adoption Support Services

In many cases the children that are adopted out of Child and Family Services custody are "special need's children." CFS is currently completing a study with the assistance of the University of Utah to identifying the key post adoption support services needed for such "special need's" adoptions. Ms. Arnold-Williams anticipates releasing an RFP later this summer for provision for post adoptive support services by a private provider rather than to do it all in-house.

"We are moving forward under the strategy of smaller geographic areas, pieces of the adoption program rather than putting the entire program on the street. We are testing to see what kind of interest there is out there and what providers there are. So we will focus on the recruitment of families and the assessment of them and the matching of those with post adoptive support services," concluded Ms. Williams.

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Unfair Government Competition Issue - Corrie Lynne Player

Mr. Kesler turned the meeting over to Corrie Lynne Player president of Tahoma Companies, Inc. for a presentation articulating issues relative to what she perceives as unfair competition. A complete summary of Ms. Players testimony is attached. Craig Peterson, Lobbyist for the Consulting Engineers Council of Utah (CECU) joined Ms. Player at the microphone to add his experiences along the same line. His private company along with Ms. Players competed for the same management plan and lost to the same state-funded entity. At the end of Ms. Players presentation, the board asked her and Mr. Peterson to bring a draft policy /rule to the September 14, 1999 meeting. The board indicated that the draft would give them time to review and discuss the issue in order to prepare documents for consideration by the 2000 Legislature.

Review Study Items

Prior to the August meeting, Ms. Moulton will email board members requesting them to prioritize the study issues that have been compiled. The outcome of this prioritization assignment will be presented during the August meeting.

Mr. Kesler closed the meeting with a reminder that the board will not be meeting during July. The next Privatization Policy Board meeting will be held on Tuesday, August 10, 1999, at 9:00 a.m. in room 225 of the State Capitol. (This meeting was canceled.)

TASK	PERSON RESPONSIBLE	DATE DUE
None Assigned		

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, September 14, 1999
9:00 a.m.

Attendees:

Jim Kesler, Chairman
Jay B. Dansie, Vice Chair
Douglas Richins, Secretary
William Barton
Rep. Nora Stephens
Steve Price
Fred Hunsaker

Excused:

Merwin U. Stewart
Sharlene McFarland
Thomas Bielen

Absent:

Douglas Durbano
Rep. Brent Goodfellow
Senator L. Steven Poulton
Senator Pete Suazo

Visitors:

Bob Richards, SL Chamber
Craig Peterson, Consulting Engineers Council of Utah (CECU)
Paul Sampson, USU Auxiliaries

The meeting was conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. Because a quorum was not present, the review of the minutes of the previous two meetings held May 11, 1999, and June 8, 1999 was delayed until the next meeting.

October 12, 1999 Policy Board Meeting, Bob Richards, Salt Lake Chamber, will bring several people to give presentations articulating issues relative to what they perceived as unfair government competition.

Discussion of Statutes Requiring Contracting Out - Douglas Richins

Mr. Kesler turned the meeting over to Douglas Richins for a discussion of statutes requiring contracting out. Below is a brief summary of each statute. A complete summary of these statutes is attached.

10-7-20 Public Improvements Cities and Towns

If the estimated cost of the proposed improvement exceeds \$25,000, those projects should be let out to the private sector. If the proposed improvements have been bid twice and no satisfactory bids are received, then the cities and/or towns may utilize their own forces.

17A-3-208 County Improvement Districts

No restrictions. Counties do not have the same prohibition that cities and towns have on projects **MINUTES**

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exceeding \$25,000. Instead, they have a broad statutory authority to do projects utilizing their own

forces.

17A -3-308 Municipal Improvement Districts

No restrictions. Municipal Improvement Districts do not have the same prohibition that cities and towns have on projects exceeding \$25,000. Instead, they have a broad statutory authority to do projects utilizing their own forces.

53A -20-101 School Districts

If the project is less than \$80,000 then the school district can make the improvements utilizing its own forces. If the project is greater than \$80,000 then the project needs to be let out to the private sector.

64-1-4 State Institutions

This is an outdated statute that should have been repealed in 1980 when the procurement code was adopted, but apparently was missed.

72-6-107 Road Construction UDOT

If the project is greater than \$40,000, then the project should be let out to the private sector.

72-6-108 and 72-6-109 Road Construction Counties and Municipalities

Any road project that exceeds \$100,000 should be let out to the private sector.

73-10-27 Division of Water Resources

If the project is greater than \$35,000, it then needs to be let out to the private sector. If the project has been bid twice and no satisfactory bids were received, then the Division of Water Resources may utilize their own forces.

Unfair Government Competition Issue - Craig Peterson

At the June meeting Corrie Lynne Player president of Tahoma Companies, Inc. and Craig Peterson representing the Consulting Engineers Council of Utah (CECU) gave a presentation articulating issues relative to what they perceived as unfair government competition from universities relating to proposals on engineering services. At the end of their presentation, the board invited both Ms. Player and Mr. Peterson back to the September meeting asking them to bring some concrete recommendations as to how they believe this issue can be remedied. (Ms. Player sent a letter asking to be excused from this meeting.) Mr. Peterson indicated that he believed that there was an appropriate place for universities to provide engineering services to government agencies. He proposed that the universities not be restricted from providing such services, but that when a public entity goes out through an open competitive process, inviting private sector firms to submit proposals then the universities should be precluded from submitting competing proposals. Mr. Peterson will return before the board in either November or December with a draft of CECU's bill.

Review Study Items

Prior to the September meeting, Ms. Moulton e-mailed board members requesting them to prioritize the study issues that have been compiled. The outcome of this prioritization assignment was presented. The tabulation is attached. Mr. Kesler expressed an interest in studying privatizing administrative aspects of state parks. His interest was peaked when he took his grand kids to the Spruces, which is a Federal

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recreation area, and then also to Wasatch State Park and there was quite a contrast in the maintenance of the campgrounds. The Forest Service and BLM have contracted out the upkeep of the Federal camp grounds and consequently, it was very well maintained. The board decided to invite Courtland Nielson to come and address the position of Parks and Recreation relative to privatization.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, October 12, 1999, at 9:00 a.m. in room 225 of the State Capitol.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, October 12, 1999
9:00 a.m.

Attendees:

Jim Kesler, Chairman
Jay B. Dansie, Vice Chair
Douglas Richins, Secretary
William Barton
Merwin U. Stewart
Rep. Nora Stephens
Senator Pete Suazo
Sharlene McFarland

Excused:

Steve Price

Fred Hunsaker
Thomas Bielen

Absent:

Rep. Brent Goodfellow
Senator L. Steven Poulton

Visitors:

Bob Richards, Salt Lake Chamber of Commerce
Ruth Ann Hamilton, Salt Lake Chamber of Commerce
Alan Heal, SaltLake.Com
Jim Olsen, Utah Food Industry Assoc.
Rep. John Swallow

The meeting was conducted by Jim Kesler, Chairman.

Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous three meetings held May 11, June 8 and September 14, 1999, were approved following a motion by Rep. Stephens.

Government Competition Issue - Bob Richards

Mr. Kesler turned the meeting over to Bob Richards who brought members of the Salt Lake Chamber of Commerce for a presentation articulating issues relative to what they perceive as unfair government competition. Mr. Richards started his presentation by pointing out that small businesses rarely have the resources to take action on government competition issues. Right now there isn't a body that exists that provides a voice for the small business if there is a situation where they are competing against government. Then Mr. Richards turned time over to the other members to briefly articulate their experiences with government competition.

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UTAH STATE PRIVATIZATION POLICY BOARD

October 12, 1999

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Alan Heal - SaltLake.Com

Mr. Heal is the creator of SaltLake.Com which is a website designed to be an information resource for small business in Salt Lake City. Mr. Heals became concerned when he read an article in a local news paper that indicated that the State of Utah was going to construct a website that would act as an electronic chamber of commerce. Mr. Heals feels that the creation of this state website is a duplicate and is in direct competition to his current website. Ms. Ruth Ann Hamilton, Salt Lake Chamber of Commerce indicated that her concern is should the government go beyond making a website highlighting what services the government is providing and go over and provide a website for what the private businesses are doing especially when there is already a website like SaltLake.Com ?

Jim Olsen, President of Utah Food Industry Association

The issue Mr. Olsen wanted to highlight to the board was that of a County owned and operated pharmacy in Roosevelt competing with local private businesses. In Roosevelt a county hospital opened a retail pharmacy in direct competition with two small pharmacies that already existed in that community. There was enough business spread between two businesses but by spreading it to three it would not create a profitable situation. Mr. Olsen investigated the situation and found that there is no law, regulations, or mechanism that allows private industry to take a complaint to a board or commission to be able to address this issue of competitive advantage that government sometimes has.

Bob Richards concluded the presentation by pointing out that all the examples the board has heard today revolve

around the issue that a mechanism needs to be in place that allows a small business owner to complain about government competition.

Rep. John Swallow

Rep. Swallow is considering introducing a bill to the Legislature similar to the S.B 49 that Senator Howard Stephenson had tried to get passed last year. Rep. Swallow proposes a bill that would first create a commission. Second this commission would have enforcement ability to enforce current laws. And third the commission would have hearing authority to hear complaints regarding violations of current laws. This commission would still study areas of privatization and would make recommendations to the Legislature. Rep. Stephens recommended to Rep. Swallow that in order for the commission recommendations to make a difference, there needs to be a follow up mechanism in the bill. Rep. Swallow asked the board for volunteers to help him write the bill. Those members that volunteered were: Mr. Barton, Senator Suazo, Mr. Durban o.

Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, November 14, 1999, at 9:00 a.m. in room 225 of the State Capitol.

**MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, November 9, 1999**

Attendees:

Jim Kesler, Chairman
Jay B. Dansie, Vice-Chair
Senator Pete Suazo
Rep. Nora T. Stephens
Merwin U. Stewart
Sharlene McFarland
William T. Barton
Douglas Richins, Secretary

Excused:

Steve Price
Fred Hunsaker
Rep. Brent H. Goodfellow

Absent:

Thomas Bielen
Senator L. Steven Poulton
Douglas Durban o

Guests:

Bob Richards, Salt Lake Chamber of Commerce
Courtland Nelson, Division of Parks & Recreation

Steve Roberts, Division of Parks & Recreation
Stephen Ogilvie, Division of Parks & Recreation
Faye Lincoln, University Hospital

Meeting conducted by Jim Kesler, Chairman. Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held October 12, 1999 were approved, following a motion by Sharlene McFarland which was seconded by Senator Suazo.

State Parks and Recreation Privatization Efforts

Courtland Nelson, director of the Utah Division of Parks & Recreation presented a report on the status of privatization efforts at State Parks. State Parks has had successes and failures in privatization. State Parks utilizes the private sector in three main areas. **Private Concessions** (about 30 of these) are used successfully at state parks for such areas as food service, bookstores, equipment rental, etc. **Service Contracts** (about 30 of these) are utilized to privatize areas from refuse removal, janitorial services to the entire management of the Rails to Trails State Park and This is the Place State Park. **Special Use Permits** are awarded to create one on one relationships to provide some kind of service such as high performance athletic competitions, special interest needs, international television contracts, etc. The Parks Board consists of nine members appointed by the Governor, by judicial district plus one at large. As a general rule, they supervise the policies and procedures of state parks and give recommendations on overall objectives they want to achieve. The board does not get involved in the negotiations of specific contracts. The legislature has basically mandated that the State Parks be self funding so they try to be very much in tune to the market place and the needs of the customers. Mr. Nelson discussed difficult issues that surround "heritage parks" which historically do not break even, but are still important to develop and maintain. He discussed the partnership between the state and the This is the Place Foundation that was developed to operate This is the Place State Park. In response to a question from the board about the State of Oregon's fine park system, Mr. Nelson explained the history behind the Oregon Parks. Some of the Oregon Parks rent out yurts to visitors. Yurts are hexagonal sided building that go back to a Native American structure. They have wooden frames and then have canvas covers and in the middle of them is a stove. They have a maintenance life of about 15 years before you have to replace the canvas. State Parks has some interest in getting into that type of business, however, they will be in competition against private camp ground owners. Mr. Nelson asked the if the board would encourage State Parks to move ahead in private investment in cabins or yurts. The board responded yes. Mr. Nelson also discussed the partnership between the Divisions of Parks & Recreation and the Division of Wildlife Resources and a private concessionaire to operate the Hardware Ranch in Cache County. There was questions and discussion about the State Parks role in operating golf courses. Currently State Parks operates golf courses at Wasatch Mountain State Park in Midway, Palisades State Park in Sanpete County, at Jordan River State Park in the Rose Park area of Salt Lake City and a golf course in Green River. Mr. Nelson said that golf courses as a general rule, loose money. Wasatch Mountain's golf course however does well. The profits go back to the golf course and the rest of the park so they can provide equipment and keep the park in good shape. The money does not go to the private sector, but it does offset the cost of any general fund dollars. Mr. Nelson indicated that it is a misconception that profits from Wasatch Mountain State Park pays for other parks. Mr. Nelson responded to specific questions from the board about past and future privatization efforts in specific areas and parks including Jordan River State Park, the Great Salt Lake and Antelope Island. The board thanked Mr. Nelson for his information.

Proposed Legislation Affecting the Board

Bob Richards provided a brief update on the working group working with Representative Swallow on the legislation that the representative discussed at the last board meeting. It was agreed to place this item on the agenda for the December board meeting. Representative Stephens indicated that she was also

preparing legislation that would affect the privatization policy board statute. She expressed a willingness to present the proposed legislation at the December board meeting as well.

Other Items

It is suggested that submitting the annual report required by statute in the fall would be better so that the legislature has time to consider the information before they meet in general session. Mr. Barton raised a concern that Utah Correctional Industries is selling signs and printing to private entities in unfair competition with the private sector.

The agenda for the December board meeting was discussed. Mr. Richins was asked to invite representatives from the Utah Transit Authority to discuss property development plans and potential issues with competing with the private sector. If the UTA representatives are not available in December, they could be invited to the January meeting and representatives from Utah Correctional Industries could be invited to provide an overview of their program. It was agreed to start the December 14, 1999 meeting at 8:30 a.m. to accommodate legislative members who have other commitments later that morning.

MINUTES
UTAH STATE PRIVATIZATION POLICY BOARD
Tuesday, December 14, 1999

Attendees:

Jim Kesler, Chairman
Jay B. Dansie, Vice-Chair
Steve Price
Rep. Nora T. Stephens
Merwin U. Stewart
William T. Barton
Douglas Durbano
Senator Pete Suazo
Douglas Richins, Secretary

Excused:

Sharlene McFarland
Fred Hunsaker
Rep. Brent H. Goodfellow

Absent:

Thomas Bielen
Senator Steven Poulton

Visitors:

Bob Richards, Chamber of Commerce, Small Business Leg. Task Force
Lilian Anthony, Utah Correctional Industries
Richard Clasby, Utah Correctional Industries
Jesse Gallegos, Utah Department of Correction Admin.
Jim Clark, Utah Transit Authority
Kathryn Pett, Utah Transit Authority
Richard Swensen, Utah Transit Authority
Ken Montague, Utah Transit Authority

The meeting conducted by Jim Kesler, chairman. Mr. Kesler welcomed the board members and visitors to the meeting. The minutes of the previous meeting held November 9, 1999 were approved, following a motion by Mr. Barton.

Utah Transit Authority

Kathryn Pett, Richard Swenson and Jim Clark representing UTA met with the board to explain the background and UTA's intent regarding real estate development and specifically the UTA board's intent in adopting "Resolution No. 354 entitled *Resolution Adopting Policy for Real Property Ownership, Development and Disposition*". The Privatization Policy Board was interested in learning whether UTA intends to act as a real property developer possibly creating unfair competition with the private sector.

Background

Operational funding for UTA is provided by sales tax, state funding is not involved. 80% of capitol funds come from the federal government which are subject to FTA policy. FTA policy allows funds to be used for a light rail system and allows to UTA to develop the property that encourages additional ridership. UTA factors that influence operation: 1) UTA does not have power of eminent domain. 2) Lack of operating funds and 3) UTA responds to requests from local government for assistance to shape the community.

UTA's Resolution

Ms. Pett discussed a new policy on Transit Joint Development which was issued by the Federal Transit Administration of the U.S. Dept. of Transportation. (A copy of this policy was distributed, and is attached to these minutes). This new policy prompted the UTA resolution No. 354. UTA makes opportunities so the private sector can develop properties thru federal funding. The resolution, adopted 6 months ago, allows the board to consider on a case by case basis the development of property. The developer is selected by a RFP process unless there is a justification of a sole selection. Mr. Barton pointed out that item D in the resolution states that UTA can be the sole developer. Mr. Price questioned how developer partners would be selected. UTA responded that unless it would constitute a sole source, the selection would be made via a competitive Request for Proposal process. Mr. Kesler pointed out that there is concern by the private sector about UTA entrepreneurship that has not been explained to the public. Mr. Clark, president of the board, stated that UTA does not have the intent of going into competition with private business. They do not have enough revenue. They will look at every case opportunity on a case by case basis. UTA's is interested to capturing revenue if it available and they would be remiss if they didn't. He thinks the resolution and guidelines adopted are fair, and the board can change if it's is not fair. But in May, they knew they were going to have property development with the light rail running. UTA knew there was going to be a lot of opportunities available and wanted to have a policy in place so they were prepared. Mr. Price asked Mr. Clark to reaffirm that any development efforts would be subject to competition, which Mr. Clark affirmed. Mr. Kesler pointed out that UTA could have communicated their intent regarding this issue to the public more clearly.

Utah Correctional Industries

At the boards request, Richard Clasby, the director of the Utah Correctional Industries presented a report on the purpose and activities of the Utah Correctional Industries, which is a division of the Utah Department of Corrections. He provided an excellent handout which summarized his fine report. A copy of that report is attached to the minutes. In response to concerns about potential competition with private industry, Mr. Clasby indicated that with the exception of their "joint private ventures", they only sell items to government entities. Mr. Barton questioned Mr. Clasby about whether they sell signs to the private sector. Mr. Clasby responded that while they have the legal ability to do that, their internal policy is to not sell signs to private entities or individuals. Occasionally mistakes are make and he is committed to correct those errors. Jesse Gallegos representing Pete Haun, the Director of the Department of Corrections affirmed their support for the goals and operations of UCI.

Update on Proposed Legislation Affecting the Privatization Policy Board

Rep. Swallow did not attend the meeting. However, Bob Richards representing the Salt Lake Chamber of Commerce distributed to the board a copy of a letter that the Chamber's Small Business Legislative Task Force had sent to Representative Swallow with suggestions. A copy of that letter is included with the minutes.

Next Meeting

The agenda for the January board meeting was discussed. It was agreed that next month the board would discuss UTA again. Mr. Kesler closed the meeting with a reminder that the next Privatization Policy Board meeting will be held on Tuesday, January 11, 2000, at 9:00 a.m. in room 225 of the State Capitol. (This time was subsequently changed to (9:30 a.m.)