

**MINUTES OF THE
INFRASTRUCTURE AND GENERAL GOVERNMENT APPROPRIATIONS
SUBCOMMITTEE**

Room 445 State Capitol Building
November 12, 2015

Members Present: Sen. Wayne A. Harper, Co-Chair
Rep. Gage Froerer, Co-Chair
Rep. Craig Hall, House Vice Chair
Sen. David P. Hinkins
Sen. Lyle W. Hillyard
Sen. Peter C. Knudson
Sen. Karen Mayne
Rep. Jacob L. Anderegg
Rep. Brad King
Rep. Douglas V. Sagers
Rep. Scott D. Sandall
Rep. Mike Schultz
Rep. R. Curt Webb

Members Excused: Rep. John Knotwell

Members Absent: Sen. J. Stuart Adams
Sen. Kevin T. Van Tassell

Staff Present: Ms. Angela Oh, Fiscal Analyst
Mr. Brian Wikle, Fiscal Analyst
Ms. Cami Deavila, Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.leg.utah.gov.

1. Call to Order

Co-Chair Harper called the meeting to order at 1:11 p.m.

2. Approval of Minutes

MOTION: Vice Chair Hall moved to approve minutes from the February 5, 9, 11, and 13, 2015 meetings and the July 30, 2015 meeting. The motion passed unanimously with Sens. Knudson, Adams, and Van Tassell, and Rep. Knotwell absent for the vote.

3. Utah Department of Transportation – Updates

Linda Hull, Policy and Legislative Services Director, Utah Department of Transportation (UDOT), presented an overview on the authorization of the Federal Highway and Transit Programs, which expires in November. The United States Senate passed a bill reauthorizing the program for six years. The House of Representative also passed a six-year version. The two bills

were under discussion and should be able to be reconciled. The funds Utah would receive should remain constant over the six years.

Co-chair Harper asked which iteration of the bill was better. Ms. Hall answered there were provisions in both bills that UDOT would support. They would continue to work with Senator Hatch to refine the provisions.

Carlos Braceras, Executive Director, Utah Department of Transportation, added STIP funding was programmed flat based on flat federal funding. Utah had a unique opportunity to provide input into the development of the policy provisions.

Rep. Anderegge asked how the failure of Proposition One would affect UDOT. Mr. Braceras stated it would not affect State roads. It would affect local roads and transit. Transit would have an affect on State roads.

Mr. Braceras presented a funding summary of revenues and resource allocations. The summary can be found on the UDOT website.

Sen. Hillyard asked for a break down of the 44 percent transferred out and what percent goes to which funds. He has had mixed messages about the money for Safe Sidewalk Funds. Mr. Braceras stated of the 44 percent, about two percent goes to other State agencies. The Safe Sidewalk Program was funded at \$500,000 a year and was matched with local government contributions. Part of the problem was local communities would commit to projects. The projects would take years to complete and a balance would build up in the account. UDOT now has authority to reprogram money not spent within two years.

Mr. Braceras continued with a presentation of the Transportation Investment Fund (TIF.) Mr. Braceras presented a summary of the gas tax. To keep level two roads at the current condition an additional \$40 million would be needed. An additional \$27 million would be needed for bridges. The gas tax increase was 4.9 cent with indexing provisions, when gas prices climb UDOT could deal with inflation. Level two roads would receive \$40 million and bridges would receive \$15 million.

Sen. Hillyard observed that Utah roads were in excellent condition compared to other states he had driven through recently.

Rep. Schultz asked if the new money coming to the State from HB 362 was being classified into level two roads and bridges. Mr. Braceras stated it was.

Rep. Sandall asked at what point in time UDOT would start to go unfunded again. Mr. Braceras stated he had not looked at that scenario specifically. He believed UDOT could go about ten years before feeling really pinched again. The cost of their work was fueled by the cost of fuel.

Rep. Sagers asked if the \$2 million gap for bridges would be filled. Mr. Braceras stated they would

continue to look at opportunities to bring in the \$2 million.

Co-chair Harper asked what percentage of the fuel tax went into B and C roads. Mr. Braceras stated about 30 percent of the TIF.

Mr. Braceras reviewed bonding scenarios including Capacity Program recommendations through 2022. Looking at one year out, they could never get to the big projects. If \$300 million were issued in bonds, there would be an additional \$138 million capacity in FY17 and \$81 million capacity in FY18. Bond proceeds could not be used to pay off debt. Mr. Braceras showed how the bond scenarios would affect the constitutional debt limit. The \$300 million bond would have \$102 million in interest. The \$500 million bond would have \$207 million in interest.

Sen. Hillyard asked if UDOT had authorized bonds that had not yet been issued. Mr. Braceras stated the calculations were based on issued bonds, not authorized. Becky Bradshaw, Comptroller, UDOT, stated the calculations showed total debt for the State, including bonds that had been issued. UDOT wouldn't know about what had been authorized.

Rep. Sagers asked how many years the amortization schedule was for. Mr. Braceras stated 15 years.

Sen. Mayne expressed concern for projects including the turn on 5400, Mountain View Corridor, and the 4100 South project. Mr. Braceras stated high speed was part of the Mountain View Corridor problem and that signals were being changed to optical heads allowing only one signal to be seen at a time. Proposals for the two-year 4100 project had been received, the project would be awarded just after Christmas, and construction would start in the spring.

Co-chair Harper stated there would be a fiscal impact to accelerate projects.

Mr. Braceras reviewed long-term and short-term transportation needs through 2025 including the snowplow fleet.

Sen. Hillyard asked about the option of UDOT renting idle equipment from major construction companies. Mr. Braceras stated the trucks were manufactured different and could not hold a snowplow. UDOT utilizes lease buy back and leasing of other equipment.

Mr. Braceras continued with the Wasatch Front Central Corridor Study. The outcome would provide input into the long-range plan in 2019. Initial recommendations showed UDOT could look at more aggressively managing roadways including metering. The Transportation Commission set aside \$100 million from the TIF for some immediate action in Salt Lake County.

Co-chair Froerer asked for a response to the Sound Wall Audit in Farr West. More specifically, if UDOT believed there would need to be legislation, a policy rule, or to just ignore it. Mr. Braceras stated there were allegations that a noise wall had been built in a location where it shouldn't have been and there was not adequate opportunity for public input. The findings established that there

was more opportunity for public input than policy required. The citizen would like the wall taken down. UDOT was asking the people that would be impacted by the removal of the noise wall sign off on it and pay for it. The auditor believed it was an appropriate approach, but a policy was needed to govern noise wall removal. Legislation would not be needed. UDOT agreed with the audit findings and would update the policy.

Rep. Anderegg asked for clarification on the noise wall issue, how much distance of the wall would need to be removed, and how much the business would be charged to remove the wall. Mr. Braceras stated a business didn't want the view of their business obstructed by the wall. Shane Marshall, Deputy Director, UDOT, stated the portion of the wall to be removed was a couple hundred feet. There was no estimate on the expense the business would incur to remove the portion of noise wall.

Co-chair Harper stated the response from the committee to the House and Senate leadership would be that UDOT would make changes to policies and procedures internally.

Co-chair Harper stated the Tax Review Commission reviewed the sales tax earmark that goes into transportation. The commission recommended eliminating 15 of 16 earmarks, which could affect the 2022 plan. Co-chair Harper asked how implementing the recommendation would affect UDOT. Mr. Braceras stated it would depend on the timing of implementing the recommendations. All projects would be completely eliminated and paying off bonds would need to be addressed.

Sen. Hillyard added the money would still go to transportation, but would be automatically funded. He was under the impression the sales tax money was not being used for bonding. Mr. Braceras stated bonding capacity would not be affected. UDOT would have to put fewer projects on the list. The full recommendations would take all the money away from the TIF. Projects were cash flowed over two and three years. It would be difficult to do big projects if they were working on year-to-year appropriations. Sen. Hillyard spoke in support of keeping bonding in the range of 40-50 percent of the constitutional debt limit.

Sen. Mayne spoke in support of earmarks and the importance of transportation to the economy.

Rep. Anderegg asked how to balance no bonding and getting rid of earmarks in the sales tax with transportation needs and requirements. Mr. Braceras stated UDOT had a plan to move in a more responsible direction in terms of earmarks and still being able to provide needed infrastructure in a reasonable time frame.

Rep. Sagers addressed the long-range plan stating it costs \$640 per vehicle per year because of bad roads. He asked if a cost-benefit analysis had been completed on what would happen if the roads were improved and if the savings could be used to retire debt service. Mr. Braceras the study was part of the new gas tax and addressing the condition of the roads. The study did not include the cost of user delay or lost productivity time.

Rep. Schultz asked for background on the Tax Review Commission. Co-chair Harper stated the

commission spends the summer reviewing tax policy, tax credits, and other taxes. They were given specific tasks by Legislative management.

Co-chair Harper introduced Mike Hussey, the new Executive Director of the Department of Technology Services (DTS), to the committee.

Mr. Hussey stated he would continue on the path Mark Van Orden, former Executive Director of DTS, had been on. Security was the number one priority.

Co-chair Froerer welcomed Rep. Hemingway back to the Legislature.

4. Fiscal Year-end Actuals Compared to Projections

Brian Wikle, Fiscal Analyst, Office of the Legislative Fiscal Analyst, reviewed FY15 revised appropriated and actual financing and expenditures for appropriated agency budgets under the committee.

5. Fiscal Note and Building Block Follow-up Report

Mr. Wikle presented the report following up on select fiscal notes and budget actions from the 2014 Legislative Session. The report showed implementation status, budget accuracy, and performance.

Sen. Hillyard asked how projects needing extra funds, or with excess funds, were reported. Mr. Wikle stated that the final page of the Executive Appropriations report showed accuracy of the predictions. If the project was within plus or minus \$10,000 it was shaded green, then yellow, and then red the further off it was. Excess funds from a project could be captured as a non-lapsing balance within the agency. Sen. Hillyard asked that there be an incentive to have projects cost less.

6. Consideration of Statutorily Required Fees and Reports for Elimination

Mr. Wikle stated the committee needed to decide if fees should be reviewed every year through the Fee Bill. Statutorily required fees would need to be pulled from statute and addressed through the Fee Bill. Fees could be addressed more readily in a committee hearing. The committee could also keep reporting requirements but not require a hearing for reports. The committee would need to decide whether to leave fees in statute, which requires running a bill to change the amount of the fee, or fees could be adjusted easily in the Fee Bill. Agencies recommend fees in statute be retained in statute.

Co-chair Harper clarified that staff was recommending that three statutory reports from the Department of Administrative Services be removed from statute, which would require a bill. Mr. Wikle clarified two reports were recommended to be removed from statute. Co-chair Harper asked for discussion from the committee. Options were to do nothing, which would retain the reports, or open a bill file to eliminate the reports.

Sen. Hillyard stated it would take too much time to review every fee. He stated support for a method to have staff review the fees and report to the committee chairs which fees should be reviewed.

Sen. Hinkins would like it left to the discretion of the agency.

MOTION: Co-chair Froerer moved to instruct staff to open a committee bill for revision or elimination of the reports as presented by the fiscal analyst. The motion passed unanimously with Sens. Adams, Knudson, and Van Tassell and Reps. Anderegg and Knotwell absent for the vote.

7. State Building Board – Operations and Maintenance Report Follow-up

Ned Carnahan, Chair, Utah State Building Board, reviewed the Capital Development request priorities including Utah Valley University Performing Arts Building for \$50 million, Utah State Archives and Records for \$4.2 million, Utah State University Original Biological Science Building and existing building renovation for \$69.2 million.

Jeff Reddoor, State Building Board, added the Board recommended \$38 million and \$7 million in alternate funding for the new building and not repurposing the existing building.

Mr. Carnahan continued with the number four project on the priority list, which was University of Utah Medical Education and Discovery for \$287 million. Mr. Reddoor clarified that upon completion of the project there would be a removal of 600,000 feet of old space and 500,000 feet of new space added. Number five on the priority list was the Department of Environmental Quality for \$6.2 million.

Sen. Hinkins asked if lease savings on the current Department of Environmental Quality building could be used for a performance bond on the project. Mr. Reddoor stated the lease revenue savings would be used for O&M.

Mr. Carnahan reviewed other projects recommended by the State Building Board including Salt Lake Community College Career and Technology Education Center for \$42.8 million, Ogden - Weber Applied Technology College for \$6.6 million, and Department of Agriculture and Food for \$26.9 million.

Sen. Hillyard stated most of the projects were Higher Ed buildings and Applied Technology Centers, not State buildings. He would hear from lobbyists for Higher Ed buildings but not for State buildings. Mr. Carnahan stated the Board was concerned that smaller projects seemed to be pushed aside. Agencies didn't have the lobbying effort or any alternative funding. Mr. Reddoor stated the State Building Board only saw four requests for State buildings.

Sen. Mayne stated support for changing strategies so that small projects wouldn't get lost in the shuffle.

Co-chair Froerer asked if the Building Board had looked at the Higher Ed proportional funding scenario. Mr. Reddoor stated the proposal would take the Building Board out of constructing and planning for the State building master plans. The Board hasn't had the opportunity, or time, to look into the report. Mr. Carnahan added it would take some study to do it right.

Rep. Anderegg asked if the previous years ranking was factored into the current priority list. Mr. Reddoor stated there was no consideration for previous rankings. The ranking was based on merits for the current year. Mr. Carnahan added that sometimes an agency would change their project priority.

Rep. Sagers encouraged the committee to visit the Agriculture building. He was concerned about the extravagance of some of the buildings being approved. Mr. Carnahan stated the Building Board also had concerns and would be addressing the issue in the near future.

Rep. Webb recommended that land banking requests be prioritized separately. Mr. Reddoor stated land banking had been done separate in previous years. This year, the board elected to do a non-prioritized list. Mr. Carnahan stated none of the entities came forward stating there was an imminent need to have the property this year. They felt no need to rank the requests.

Mr. Carnahan continued with non-State building requests. The Board recommended approving the projects and to move them forward without Legislative appropriation.

Sen. Mayne asked for clarification that the land banking requests were actually needs or wants. Mr. Carnahan stated all institutions were looking for expansion opportunities. The Board puts an emphasis on need. There were no criteria for prioritizing land-banking requests. Mr. Reddoor added it was mostly opportunity rather than need.

Sen. Hillyard asked if there could be an arbitrary number set aside for land acquisition, similar to the 1.1 percent for capital improvements. Mr. Reddoor stated the State would have the opportunity to save the money now, rather than five years from now.

Mr. Reddoor presented the O&M costs and funding for State owned buildings. The summary of proposed processes included; a process for tracking individual building O&M, an alternative O&M funding model, and to adjust O&M for inflation.

Rep. Sagers stated the report would be a great management tool.

Sen. Hillyard asked if the age of the building was considered when determining the allocations for Capital Improvements. Mr. Reddoor stated the new capital improvement process would consider the age of the building. Sen. Hillyard stated concern that O&M have adequate funding and be spent correctly. The existing infrastructure should be taken care of before constructing new buildings. Mr. Carnahan stated the facilities audit program helps with facility conditions and was being expanded to infrastructure. Mr. Reddoor added that one recommendation was to compare several

building O&M costs when there was an O&M request for a new building.

Co-chair Harper asked if the actual amount for capital improvements had been decided. Mr. Reddoor stated the base would be \$111 million. There would be a \$90 million increase for 2 percent.

Rep. Webb asked if the industry standard for a commercial building in the private sector was 3 percent for O&M funding. Mr. Reddoor stated he believed the number was around 2 to 2.2 percent. Mr. Carnahan stated the Building Board was on the look out for the more critical issues.

8. Division of Fleet – General Fund Borrowing

Mr. Wikle reviewed the Division of Fleet Operations General Fund borrowing and accumulated debt from the General Fund. Fleet Operations was \$33 million in debt to the General Fund. The debt was projected to grow to \$46 million by 2018. The Division purchased just over 300 vehicles in 2015. Historically, the Division had under recovered on the lease rates. Federal rules limit the recovery to the purchase price.

Rep. Sagers asked for more information on the federal rules that govern the purchase of vehicles. Jeff Mottishaw, Director, Division of Fleet Operations, stated lease payments were based on the depreciation of the actual purchase price of the vehicle. An inflationary measure couldn't be built in to collect enough money for the purchase of a new vehicle without rebating money back to the federal government.

Mr. Wikle reviewed the fleet leasing model. There was a structural problem that wouldn't allow fleet to ever recover enough to fund the replacement vehicle. This created a perpetual need for borrowing. Fleet was charging a bundled rate for maintenance and fuel. The requirement was to predict fuel prices about one year in advance of when the cost was incurred. Historically, the rate was under predicted. The 2015 Legislature made the fuel cost a pass-through. The Division had taken measures to address the need to borrow and the accumulated debt. Options to handle the General Fund debt include maintaining the status quo, appropriating funds to eliminate the current debt, building an inflationary factor into the lease rates, or continuing with the current model and appropriating for the inflationary difference. The options could be combined to address the inflationary factor and the accumulated debt. Mr. Wikle recommended appropriating \$8 million per year for five years to cover the debt and appropriating each year for the inflationary amount.

Co-chair Harper asked for clarification on how much of fleet belonged to Higher Ed, Public Ed, and general State vehicles. Mr. Mottishaw answered State agencies had about 4,500 vehicles and 3,000 for Higher Ed. The accumulation of debt came from State vehicles. Higher Ed had their own funding and paid for vehicles up front.

Co-chair Froerer asked if the new rates in place and policy changes had stopped the accumulation of debt. Mr. Wikle stated the fuel and maintenance issues had been fixed, the purchase price of replacement vehicles not been fixed. The Legislature would need to address the issue. Co-chair

Froerer asked if there were other innovations being used to reduce costs and keep vehicles available for use. Ken Hansen, Deputy Director, DAS, stated they were looking at RFPs for several options including privatization of the process; Mr. Mottishaw reviewed the Enterprise program. Feedback from the agencies was positive.

Rep. Sagers asked if the \$40 million debt was paper loss or real loss and if the losses should have been addressed with an appropriation in each fiscal year. Mr. Mottishaw stated Fleet Operations was an ISF running on dedicated credits for the lease payments. The dedicated credits had a \$2 million gap for vehicle acquisition. The losses could have been handled with an appropriation, which was one of the options the Legislature needed to look at. Rep. Sagers asked if it made sense to lease vehicles rather than purchasing. Mr. Mottishaw stated Fleet Operations was looking into a leasing model.

Co-chair Harper stated the committee would need to discuss the issue further.

9. Response on Audit Letters from the Legislative Auditor General

a. A Follow-up Audit of Higher Education's Management Practices for Operation and Maintenance Funding.

Rich Amon, Assistant Commissioner for Business Operations, Utah Higher Ed, and Mr. Reddoor reviewed the audit of Higher Ed's Management Practices for O&M funding. All recommendations had been implemented or were in the process of being implemented.

Co-chair Froerer asked if legislation or a change in statute would be needed for any of the recommendations. Mr. Amon stated it would not be needed. Co-chair Froerer asked if any of the recommendations would need a closer review between now and the Legislative session. Mr. Reddoor stated the majority had been implemented through rule and policy. One item that may need legislative attention was the adjustment of O&M expenditures.

Mr. Amon added that legislation would be needed if the current model for O&M were changed. There would need to be an adjustment for current expenses if the formula were not used.

b. Review of Allegations Concerning DFCM Construction Contracting

Co-chair Harper asked for a response to the audit of Higher Ed management practices of O&M funding and allegations concerning DFCM construction contracting. Bruce Whittingham, Interim Director, DFCM, reviewed the five recommendations. All recommendations were in place or in process.

Sen. Mayne asked for clarification that the audit showed DFCM was not implementing legislation she passed covering random drug testing for State buildings under construction and general contractors and sub-contractors needing to have a safety program in place. Mr. Whittingham stated the audit also included the insurance processes. DFCM had been implementing the legislation. DFCM was using the form contractors signed stating they were meeting general terms and conditions. The auditors recommended there be a separate process, which was now being implemented.

Co-chair Harper stated the committee would report to the audit committee that the audits were being addressed and the agency was properly responding.

MOTION: Rep. King moved to adjourn. The motion passed unanimously.

Co-Chair Harper adjourned the meeting at 4:56 p.m.

Sen. Wayne A. Harper, Co-Chair

Rep. Gage Froerer, Co-Chair