Executive Appropriations Committee

Meeting Summary - May 19, 2009
Senator Lyle Hillyard & Representative Ron Bigelow, Co-chairs

Report: Accountability for Federal ARRA Funds

The Legislative Fiscal Analyst reported on the American Recovery and Reinvestment Act. Danny Schoenfeld and Rich Amon reported on the process that Executive Appropriations will use to review and approve ARRA funds. The report also focused on the tracking of expenditures from ARRA. The Governor’s Office of Planning and Budget also reviewed recovery.utah.gov and www.recovery.gov.

Staff Contact: Danny Schoenfeld

Report: Federal Funds

Tenielle Young of the Governor’s Office of Planning and Budget presented the list of Federal Funds, Non-Federal Funds, and American Recovery and Reinvestment Act applications to Executive Appropriations Committee.

Staff Contact: Danny Schoenfeld

Report: Legislative Intent Regarding Quality Teaching Days

The Executive Appropriations Committee approved a memo to the State Board of Education, School Districts and Charter Schools that clarifies budget reductions taken during the 2009 General Session in Social Security & Retirement, Quality Teaching Block Grant and Local Discretionary Block Grant. The committee explained in the memo that the Legislature "did not necessarily intend that the programs and purposes traditionally supported by these categories of funding should bear the entire burden of the reductions."

However, legislators did intend that local decision-makers distribute "reductions among school districts and charter schools...to meet district or charter school level priorities."

Staff Contact: Ben Leishman and Patrick Lee

Report: Fiscal Note and Building Block Follow Up

The Executive Appropriations Committee accepted the annual "Fiscal Note Follow-up Report." The report looks at controversial or high profile items where there was a dispute over costs. The report checks the accuracy of the information given by the agencies and accuracy of the final fiscal note. The report also checks to see that bills are implemented on time. This year's report examined 46 bills. The Committee also received the very similar "Building Block Follow-up Report." This year's report examined 51 building blocks.

Staff Contact: Stan Eckersley

Report: Presentation of Bills for Special Session

The Executive Appropriations Committee approved four bills for the 1st Special Session of the 2009 Legislature: H.B. 1003; Appropriations Adjustments Related to Federal Funds; S.B. 1001 Forest Reserve Fund Amendments; S.B. 1003, Disposition of Registration Fee Revenue; and S.B. 1004, Supplemental Appropriations Adjustments.

Staff Contact: Jonathan Ball
**Utah Department of Corrections FY 2010 Budget and Personnel Impacts**

For FY 2010, the budget for the Department of Corrections decreased by $20.3M or 7.2% of their total budget from FY 2009. Reductions include the closure of the Institutional Parole Office, Transition Center, the Diagnostic Center, reverting the Drug Offender Reform Act (DORA) back to a pilot program, reductions in the Jail Reimbursement program, and others. Included are actions/plans regarding staff given their reduced FY 2010 budget.

Currently the Department is estimating the elimination of 158 positions – including positions for corrections officers, support, and administrative positions. The Department offered a retirement incentive to those who were eligible for retirement. As a result, many staff opted to retire. Consequently, the Department was able to both eliminate some of the newly vacated positions and move others whose positions were targeted for elimination into a newly vacated position at a lower salary level.

Working with the Department of Human Resource Management (DHRM), where allowable and upon knowledge that their position was to be eliminated staff were informed and moved into the vacated positions of the newly retired staff. While these actions translated into a reduction in pay, only 2 of the 158 positions that were eliminated resulted in job loss. The Department is implementing the new FY 2010 budget and is preparing for the full FY 2010 budget implementation beginning July 1st, 2009.

**Infrastructure Development**

Legislative funding of capital developments almost invariably goes to new buildings. But statute says capital development funding can be used for more than just new buildings; it may also be used for a “remodeling, site, or utility project with a cost of $2,500,000 or more” (UCA 63A-5-104). Infrastructure repairs are likely to become a bigger part of the state’s capital development spending, particularly at our older university campuses.

Since the infrastructure around and underneath buildings isn’t as visible and attractive as the buildings themselves, it usually doesn’t receive the same kind of attention—until something goes wrong. Donors don’t line up to have utility lines named after them. Universities usually don’t make infrastructure their top priority requests. The last time the Legislature approved state funds for an infrastructure project was in the 2001 General Session, granting $38 million to USU for a new heat plant and associated steam lines. Portions of the existing steam distribution system dated back to the 1920s and were in a state of imminent failure.

Infrastructure hasn’t been completely neglected. Due to the limited availability of donations or taxpayer funds, state agencies and higher education institutions usually fund such projects through capital improvement funding (if projects cost less than $2.5 million), revenue bonds, fees, or energy service companies. While these are all viable alternatives, they may not be sufficient without assistance from state funds in coming years.

The Legislature has carefully debated the difficult balance between funding new projects to accommodate growth, and repairing/replacing existing facilities that need attention. Existing infrastructure will need more attention in the future.
New Federal Requirements for CHIP

When the federal government reauthorized the Children’s Health Insurance Program (CHIP) in February 2009 through September 2013, it included new requirements for mental health and dental benefit levels. Currently Utah’s CHIP program does not meet the mental health requirement and is above the required minimum for dental services. In order to pay for the $700,000 total fund increases in mental health benefits, the CHIP program will implement the following changes beginning July 1, 2009: (1) $1,000 maximum benefit for dental services, (2) increased cost sharing for dental services, and (3) higher cost sharing for medical services received by families with incomes from 150% to 200% of the federal poverty level. Families with incomes below 150% of the federal poverty level have less flexibility to have increased cost sharing due to federal limitations. In March 2009, Utah’s CHIP program served 39,300 children.

Required Report – Medicaid 340B Drug Pricing Programs

As required in HB 74 “Medicaid 340B Drug Pricing Programs” from the 2008 General Session, the Department of Health submitted their quarterly report on February 21, 2009. The following summary details the three requirements of the report and the Department of Health’s response:

- Potential cost savings from 340B program expansion – previous reports estimated potential savings of $400,000 Total Funds ($115,000 General Fund) for multiple sclerosis drugs. Due to decreases in drug reimbursement through legislative actions, the savings will be less than previously anticipated.
- Medicaid plan changes required for program expansion – need a freedom of choice waiver and State Plan Amendments for each disease state added.
- Projected implementation of drug programs for specific diseases – Health projects having a functional 340B program for multiple sclerosis by April 1, 2013. Thirty-six of the months in the projected timeline is time working with the federal government to approve the needed waivers and amendments.

Department of Environmental Quality - Drinking Water Program

Over the past year, the Division of Drinking Water has received applications to fund local government drinking water facilities for 93 projects with a combined cost of over $393,000,000. The Division anticipates funding of $17,906,700 from their traditional drinking water program. In addition, the Division of Drinking Water was allocated $19,500,000 from the American Recovery and Reinvestment Act (ARRA) of 2009.

Each project identified by the local government requests was placed on the Project Priority List and then ranked using criteria established by Rule (refer to UAC R309-705-6). This ranking system includes such factors as: a) public health risk, b) non compliance issues with the Safe Drinking Water Act, and c) source, storage, treatment and/or distribution system capacity deficiencies. Requirements of the American Recovery and Reinvestment Act of 2009 added the following criteria:

1. Priority must be given to projects that will be ready to proceed with construction by February 17, 2010, i.e. “shovel-ready” projects.
2. The Division must reserve 50% of the monies to assist public water systems in the form of: a) principal forgiveness, b) negative interest, or c) grants.

The Division must allocate 20% of the funds for projects that are considered “Green Infrastructure Projects.” The EPA guidance identifies projects as “Green” if they are: a) water efficient, b) energy efficient, c) green infrastructure, or d) environmentally innovative projects. The Drinking Water Board in their April 23, 2009 meeting approved drinking water projects totaling $37,406,700 for the following projects:

- Austin, $1,073,000
- Blanding City, $2,373,000
- Cannonville Town, $333,300
- Town of Daniel, $4,530,400
- Dixie Deer SSD, $2,940,200
- Logan City, $1,025,000
- Town of Manila, $2,977,200
- Mountain Region SSD, $2,445,300
- Salt Lake City, $2,808,600
- Ticaboo SSD, $502,500
- Washington Co WCD-Quail Creek, $12,445,000
Enrollment, Tuition at Higher Education Institutions Continue to Grow

Following enrollment increases in the Fall of 2008, the Spring 2009 budget-related FTE Enrollment showed an overall increase of nearly 4,700 students or 5.51% when compared to the same time during 2008. Utah Valley University and Salt Lake Community College lead the increase by 1,405 and 1,011 FTE students, respectively. Dixie State College’s increase of 582 FTE students represents an increase of 16.35% over 2008.

The State Board of Regents met in late March and approved a one percent first-tier tuition rate increase for academic year 2009-2010. In addition to the first-tier tuition, the Regents approved second-tier tuition ranging from 3.0 to 8.5 percent. The tuition increases for academic year 2009-2010 will generate approximately $23.7 million. The following table shows the tuition percent increases.

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<th>1st Tier</th>
<th>2nd Tier</th>
<th>Total</th>
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<td>Utah State University</td>
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<td>Weber State University</td>
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<td>Southern Utah University</td>
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<tr>
<td>Utah Valley University</td>
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<td>Dixie State College</td>
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<td>College of Eastern Utah</td>
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<tr>
<td>Salt Lake Community College</td>
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<td>3.0%</td>
<td>4.0%</td>
</tr>
</tbody>
</table>

Utah Science Technology and Research Initiative Update

During the 2009 General Session, the Legislature appropriated an additional $33,000,000 in ARRA funding to the Utah Science Technology and Research Initiative (USTAR) in an effort to spur long-term economic growth. Of these funds $3 million will be used to backfill the University of Utah and Utah State University research budgets; $3 million will be used to backfill a portion of the Technology Outreach Program; $3 million will be used for recruitment of the University of Utah’s #1 candidate; $20 million will be used for new research initiatives; and $4 million is still up in the air. At the next Governing Authority Meeting on June 4th, the Board will discuss the allocation of the remaining $4 million.

Department of Public Safety Restricted Account Update

The Department of Public Safety Restricted Account is a restricted account within the Transportation Fund. The account funds the Department of Public Safety’s Driver License Division in fulfilling its statutory requirements and certain Commissioner and Utah Highway Patrol responsibilities. By statute, a small portion of the account also supports the Department of Health in performing drug and alcohol analysis tests for state and local law enforcement agencies.

Under Utah Code 53-3-106, the account consists of funds provided from fees for driver licenses, renewals, extensions, reinstatements, rescheduling, and identification cards. It’s also composed of other authorized administrative fees, such as charges for copies of driving records and similar personal identifying reports, legislative appropriations, and interest earned on the account.

In the 2009 General Session, the Legislature funded two additional programs from the account. First, lawmakers passed S.B. 259, “Public Safety Restricted Account Amendments.” The bill appropriates $100,000 annually beginning FY 2010 to the state medical examiner for use in carrying out duties related to highway traffic fatalities.

Second, lawmakers funded a Centralized Statewide Call Center to handle phone calls to the Driver License Division. Currently, each Driver License field office responds to incoming phone calls within its own office. Due to population growth, driver license examiners are increasingly answering phone calls while walk-in customers must wait for service. The Legislature appropriated $688,000 ongoing funds beginning FY 2010 to provide twelve FTEs and centralize the phone call service function, thereby reducing walk-in customer wait time.
**PUBLIC EDUCATION**

Staff Contacts: Ben Leishman & Patrick Lee

**EAC Memo to School Districts and Charter Schools**

Executive Appropriations Committee approved a memo to school districts and charter schools. This memo clarifies legislative intent regarding reductions in public education that were approved during the 2009 General Session.

Three programs in the Minimum School Program received the bulk of the reductions to the public education budget: Social Security & Retirement, Quality Teaching Block Grant, and Local Discretionary Block Grant. The memo clarifies that the Legislature used these programs as the mechanism to distribute reductions and did not envision the complete elimination of the programs. The specific intent of the Legislature is that each local education agency look at all expenses, including other classroom costs, district and school administration, and classified employees, when determining how to implement reductions and move unrestricted funding to meet district or charter school level priorities. The Legislature specifically did not reduce the value of the Weighted Pupil Unit, with the idea that districts and charter schools could better manage individual priorities within these largely unrestricted funds.

**GOVERNMENT OPERATIONS**

Staff Contact: Rich Amon

**2009B Series Bonds**

On May 19, 2009 the State of Utah will issue $104.45 million of General Obligation (G.O.) Bonds for capital facilities authorized in the 2009 General Session and USTAR facilities authorized in the 2006 General Session. This will be the 2009B series of General Obligation bonds. The State held a competitive bond sale on May 5, 2009 in which the winning bid was 1.70% true interest cost. The State will receive a $9.68 million premium on the bonds making the total proceeds from the sale of these bonds $114.1 million.

Proceeds from the 2009B bonds will be used for the following projects:

- $32 million for H.B. 4 (2009 G.S.) buildings
- $42 million for S.B. 201 (2009 G.S.) buildings, which include:
  - $18.8m for the MATC North Utah County Campus building
  - $7.9m to begin expansion of the U of U School of Business building
  - $6.5m for Schools for the Deaf and the Blind purchase and remodel
  - $3.0m for design of the Dixie State College Centennial Commons
  - $2.8m for design of the UVU Science/Health building addition
  - $1.0m to begin SLCC Digital Design/Communication Tech. Center
  - $1.0m to begin Ogden/Weber ATC Health Tech. building
  - $1.0m to begin SUU Gibson Science center
  - $37 million for USTAR buildings authorized in the 2006 G.S. (S.B. 75)

**NATURAL RESOURCES**

Staff Contact: Ivan Djambov

**Utah State Energy Program Update**

The Utah State Energy Program (SEP) is eligible to receive up to $46 million for renewable energy and development of energy efficiency during the next three years under the American Recovery and Reinvestment Act (ARRA). The funding will be used to:

1. Increase energy efficiency to reduce energy cost and consumption for consumers, businesses and government.
2. Reduce reliance on imported energy.
3. Improve the reliability of electricity and fuel supply and the delivery of energy services.
4. Reduce the impacts of energy production and use on the environment.

The Department of Energy requires all Utah SEP ARRA Formula Grant funds to be committed within 18 months of the effective date of the award (April 29, 2009), and all funds to be expended within 36 months of the effective date. The reporting categories for the utilization of the funds will include: jobs created, energy saved, renewable energy installed/generated, greenhouse gas emissions reduced, energy cost savings, and funds leveraged. For details and updates see SEP’s website: [http://geology.utah.gov/sep/stimulus/](http://geology.utah.gov/sep/stimulus/).
I’ve heard a legislator once said "We spend the first half of General Session fixing the mistakes we made last year. The second half of Session is reserved for making new ones." It’s perhaps a bit overstated, but more or less true. Law making is by design an iterative process.

Following each Session we on staff review the actions of the Legislature and identify inconsistencies, ambiguities, and outright errors. Most of these can be fixed in a subsequent regularly scheduled session. On the budget front, this is one of the main purposes of supplemental appropriations.

However, following the 2009 General Session, we found two problems that couldn’t wait a year. First, when we drafted the Minimum School Program Budget Amendments (H.B. 2, 2009 General Session) we did it in such a way that the bill absolutely required two-thirds majority in order to balance the current year budget. It passed both the House and Senate by less than two-thirds. Second, when we transferred Severance Tax Holding Account balances to the General Fund, we did it in FY 2010 - overlooking a law from two years ago that sweeps account balances at the end of FY 2009. Left unchecked, these two technical glitches would have put the budget more than $100 million out of balance.

These items needed immediate attention - and thanks to swift action by legislative leaders, they got it. Given the opportunity of a Special Session, legislators also corrected a number of other things that otherwise would have waited until next year - statutes with missing conjunctions, vague legal direction on disposition of revenue, bills that passed after the bill of bills and thus were not funded. We all recall them fondly. But given the sheer volume of decisions made in General Session - especially one with a $1 billion budget gap - having even a fifteen item Special Session is perhaps understandable.

During the 2009 General Session, the Legislature passed four hundred and fifty one bills. It needed to fix drafting issues in three. To balance the FY 2009 and FY 2010 budgets, Legislators transferred over $300 million from more than fifty-four different sources. It had to fix timing problems with two. The fixes took place in a little more than two hours on a regularly scheduled interim day at no additional cost to taxpayers. All of that said, we continue to strive for perfection. Make no mistake.