

**MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE**
Tuesday, July 16, 2013 - 1:00 p.m. - Room 445 State Capitol

Members Present:

Sen. Lyle W. Hillyard, Co-Chair
Rep. Melvin R. Brown, Co-Chair
Sen. Jerry W. Stevenson, Vice Chair
Rep. Brad R. Wilson, Vice Chair
Sen. J. Stuart Adams
Sen. Gene Davis
Sen. Patricia W. Jones
Sen. Peter C. Knudson
President Wayne L. Niederhauser
Sen. Karen Mayne
Sen. Ralph Okerlund
Sen. Luz Robles

Rep. Joel K. Briscoe
Rep. Rebecca Chavez-Houck
Rep. Tim M. Cosgrove
Rep. Brad L. Dee
Rep. Gregory H. Hughes
Speaker Rebecca D. Lockhart
Rep. Don L. Ipson
Rep. Jennifer M. Seelig

Staff Present:

Mr. Jonathan Ball, Legislative Fiscal Analyst
Mr. Steven Allred, Deputy Director
Ms. Greta Rodebush, Legislative Secretary

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

1. Call to Order/Approval of Minutes

Co-Chair Brown called the meeting to order at 1:13 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of June 18, 2013. The motion passed unanimously with Sen. Davis, Sen. Jones, President Neiderhauser, Rep. Briscoe, Rep. Chavez-Houck, Rep. Cosgrove, and Rep. Seelig absent for the vote.

2 Federal/Non-federal Grants Report

Ms. Jill Flygare, Governor's Office of Management and Budget (GOMB), presented the Federal/Non-federal Grants Report dated July 16, 2013. Under federal grants, there were four new grants, one new reapplication or continuation of an existing grant, and three revisions of existing grants requiring legislative action. In addition, the Governor's Office approved three new grants, one reapplication or continuation of an existing grant, and one revision of an existing grant.

Under non-federal grants, there were no new grants, no reapplications or continuations of existing grants, and no revisions of existing grants requiring legislative action. In addition, there were no non-federal grants approved by the Governor's Office.

Mr. Gary Syphus, Fiscal Analyst, LFA, added that the Judicial Council had submitted the Court Improvement Program (CIP) for committee approval as well.

Mr. Jonathan Ball called attention to the two multi-year grants, Public Education - Safe Schools, and Utah State Office of Rehabilitation - PROMISE, and suggested they be broken up and approved one year at a time. He pointed out that any grant in excess of \$25 million would require the approval of the Legislature. In addition, approving a grant over several years does not take into account that the grant commitment might change as a result of federal deficit reduction.

Ms. Flygare stated that there is no clear policy on how to handle multi-year grants.

Mr. Ball recommended that the EAC review the first year for each of these grants and the appropriations subcommittees review the subsequent years during annual general sessions.

Sen. Hillyard asked for some additional information on the State Office of Rehabilitation Promoting the Readiness of the Minors in Supplemental Security Income (PROMISE) grant program. The federal award is \$24,375,000 for 5 years with no state match. Ms. Flygare explained that the PROMISE Initiative represents a consortium of six western states. Utah is the applicant and the funding will be distributed amongst the six states based on a funding formula.

Mr. Russell Thelin, Director, Division of Rehabilitation Services, Utah State Office of Rehabilitation, explained that six states - Arizona, Colorado, Montana, North Dakota, South Dakota, and Utah, formed the western consortium in order to meet the U.S. Department of Education's minimum enrollment requirements. He indicated that only about 25 percent of the grant money will stay in Utah and the remainder will be pro-rated out to the other participating states.

Sen. Hillyard asked what would happen if the committee approved the grant, and in two years from now, the federal government made changes to the funding. Mr. Thelin responded that the PROMISE Initiative is a model demonstration project for which funding exists. If funding was cut, the grant would end. There is no continuation or expectation of sustainability for this grant.

MOTION: Sen. Hillyard moved to recommend acceptance of the federal grants as outlined on page 1 of the handout entitled, "Federal/Non-Federal Grants Review and Approval" under the heading, "Grants Requiring EAC Review and Recommendation" and dated today, July 16, 2013 with the following exception: Approve only the first year of items 3 and 4 (Public Education - Safe Schools, and State Office of Rehabilitation - PROMISE) and require subsequent years to be reviewed by appropriations subcommittees during annual general sessions. The motion passed unanimously with Sen. Davis, Rep. Briscoe, and Rep Wilson absent for the vote.

3. DWS Report on Preparations for Mandatory Federal Health Care Reform

Mr. Kevin Burt, Associate Director, Eligibility Services Division, Department of Workforce Services (DWS), reported on the progress DWS is making with the mandatory changes associated with the Affordable Care Act (ACA). During the 2013 General Session, the Legislature appropriated \$1.8 million ongoing (FY 2014) and \$667,600 one-time (FY 2013) to prepare for the mandatory changes that begin January 2014.

Mr. Burt discussed the delay in the employer mandate to provide health insurance and the impact on DWS's new eligibility system, the health exchange, application deadlines, the conversion of CHIP cases to Medicaid, and DWS's new eligibility system.

Mr. Burt reported that the delay in the employer mandate to provide health insurance will have no impact on DWS's new eligibility system. The system will reflect all the mandatory changes to the Medicaid rules. The changes to Medicaid rules do not go into effect until January 1, 2014. However, an individual can apply beginning October 1, 2013 and will be access eligible under current rules. If they are found ineligible, they will have to be accessed based on rules as they will be on January 1, 2014.

The Exchange will also be up and going October 1, 2013. An individual can shop for private insurance and possibly receive a tax credit to help pay for private insurance. In order to get a tax credit, an individual must first be denied Medicaid or CHIP. When they apply they will be assessed for Medicaid and CHIP and then sent over to DWS for a more comprehensive evaluation. If DWS determines they are eligible, DWS will certify them. If DWS determine they are ineligible, based on the rules come January 1, DWS will refer them back to the Exchange so they can get a tax credit determination to shop for private insurance.

Mr. Burt reported that of the mandatory Medicaid changes are going to cause a movement of people who are on CHIP to Medicaid. He referred to the mandatory change that eliminates the asset tests for children from ages 6 to 18. There is also a mandatory minimum income limit change - an increase in income test to be eligible for that Medicaid program. DWS believes that movement will result in about 70 percent of children on CHIP moving onto Medicaid because of those two changes. There has been some confusion on when this will occur, on January 1 or throughout the year when individuals are re-certified. CMS says that everyone needs to be assessed within four months of 2014.

As far as the new eligibility system is concerned, DWS is building all the mandatory Medicaid changes into the system and building a connection to the health exchange. There will be a single application process for both Medicaid and the tax credit. The Centers for Medicaid and Medicare Services (CMS) evaluated the status of the DWS project and how it was spending its money. CMS determined that DWS would have the mandatory changes in place by October 1, 2013.

Mr. Burt responded to committee questions regarding the benefits packages for Medicaid and CHIP, how the state and federal government plan to help consumers navigate the exchange and the DWS eligibility system, and the differences in the federal match rate for CHIP and Medicaid.

The committee also discussed the budgetary impacts associated with the projected shift of children moving from CHIP to Medicaid.

4. PEHP Report on Upcoming Rate Expectations

Mr. Chet Loftis, Director, Public Employees Health Plan (PEHP), reported on PEHP's rate projections for FY 2015. He announced that Mr. Dan Anderson will be replacing Mr. Bob Newman as the Executive Director for the Utah Retirement System as of August 1, 2013. In addition, Mr. Dee Larsen will replace Mr. Anderson as the legislative liaison for URS and PEHP.

Mr. Loftis used a slide presentation, "State Risk Pool Renewal," to discuss the historical funding of the state risk pool and the funding reserves. He stated that from FY 2007 to FY 2013, the state appropriation to the state risk pool has been essentially the same. The total premium, however, has been higher due to increases in employee premiums. Mr. Loftis noted that in FY 2011, PEHP's reserves exceeded recommended funding levels (between 50 and 80 days of reserve). To compensate for the excess, PEHP held rates down and used one-time reserve money to fund ongoing obligations. At the end of FY 2013, there were 95 days in reserve. By June 30, 2014, PEHP expects the funding reserves to be around 50 days.

In the 2013 General Session, the Legislature funded a 5.5 percent increase or \$11.7 million to the state risk pool. This includes a FY 2015 allocation of \$7.4 million and \$2.3 million for PPACA. The state appropriation was \$223.7 million and the employee share was \$23.8 million for a total premium of \$247.7 million for FY 2014.

According to preliminary figures for FY 2015, PEHP is looking at a 9.5 percent increase in the state risk pool including a 1.8 percent increase for PPACA fees, and the FY 2015 offset for 3.5 percent or \$7.4 million. Mr. Loftis commented that if the PPACA fees are removed, the rate of increase to the state risk pool would be 7.7 percent, which is close to trend. The state appropriation would be \$253.5 million and the employee share would be \$23.8 million for a total premium of \$277.3 million to run the program.

Mr. Loftis responded to questions regarding loss ratios, salary increases and the impact on employee premiums, keeping costs low and avoiding future increases.

5. Fiscal Notes/Building Block Follow-up Report

Mr. Stephen Jardine, Fiscal Analyst, LFA, presented the Issue Brief, "Fiscal Note and Budget Item Follow-Up Report," that follows up on 113 select fiscal note and budget action items from past legislative sessions. Using a set of scoring guidelines, the Analyst ranked each item with a stop light code (red, yellow, green) for implementation, budget accuracy, and performance. In instances where an item does not have performance measures, the Analyst applied a yellow stop light.

LFA staff analysts discussed the following fiscal notes and budget action items:

1) The Draw in Sugarhouse ; 2) Civil Commitment Amendments; 3) Pilot Program for Autism Spectrum Disorders Services; 4) Health Care Exchange; 5) Joint Professional School of Veterinary Medicine; 6) Delisting of Wolves; 7) Statewide Adaptive Testing; and 8) Peer Assistance and Review Pilot Program.

Sen. Mayne mentioned that the performance data for S.B. 81, Paraeducator Funding, is now available and showing positive results.

Rep. Briscoe asked for a clarification on the accuracy ranking for Statewide Adaptive Testing.

Sen. Jones observed that most items ranked with a yellow stop light indicate that no performance data was available. She inquired about the language for the Delisting of Wolves, which states that no specific performance measures were established by Division of Wildlife Resources (DWR).

Mr. Ivan Djambov, Fiscal Analyst, LFA, and Mr. Greg Sheehan, Director, Division of Wildlife Resources (DWS) responded to Sen. Jones inquiry about not establishing specific performance measures for Delisting of Wolves and other questions.

Co-Chair Brown postponed the discussion to allow Sen. Hillyard and Lieutenant Governor Greg Bell to present Agenda Item 11, "State Settlement Agreement Appropriation," which the Legislature was going to address in Special Session.

TIME CERTAIN: State Settlement Agreement Appropriation [Agenda Item 11]

Sen. Hillyard explained the state purchased a piece of land in the West Utah area in exchange for surplus property, but the state was not able to honor the contract. Consequently a lawsuit was filed, Deep Creek Ranch LLC v. Utah State Armory Board. The Supreme Court affirmed that the state had breached the contract and damages were sought. The outcome of the lawsuit has been pending for 15 years. The state has been trying to negotiate a settlement on the damages. This past week a settlement was arrived at \$2,995,000.

Sen. Hillyard explained that the legislation, S.B. 1001 “Deep Creek Case” would appropriate \$2,995,000 from the Rainy Day Fund to satisfy the settlement. He indicated that this money will be paid back to the Rainy Day Fund.

Rep. Cosgrove stated that he needed some more information about the Deep Creek Case in order to justify spending \$3 million. Sen. Hillyard indicated that the state had contracted to buy a ranch in the West Desert area in conjunction with the National Guard, which was going to be paid for with surplus property. Because the state could not deliver the surplus property, and damages were sought.

Rep. Seelig was interested in knowing what the state could do to prevent this from happening again.

Co-Chair Brown explained that the state was going to purchase the ranch with state surplus land, which the state was not able to do. The state was sued for damages and after many years, the courts are ready to proceed. Rep. Brown stated that a settlement of \$3 million is a good deal and that the state should take it.

MOTION: Sen. Stevenson moved to favorably adopt S.B. 1001, Deep Creek Case Appropriation, as an Executive Appropriations Committee bill. The motion passed unanimously with Sen. Davis and Rep. Hughes absent for the vote.

5. Fiscal Notes/Building Block Follow-up Report (continued)

Co-Chair Brown resumed discussion on the “Fiscal Notes/Building Block Follow-up Report.”

Co-Chair Brown said that this report gives legislators an opportunity to look at the outcomes of some of their bills.

MOTION: Sen. Stevenson moved to refer the items in the “Fiscal Note and Budget Item Follow-up Report” to the appropriations subcommittees for further consideration. The motion passed unanimously with Sen. Davis, Sen. Hillyard, and Rep. Hughes absent for the vote.

6. UDC Report on Prison Capacity

Mr. Rollin Cook, Executive Director, Utah Department of Corrections (UDC), introduced Mr. Mike Haddon, Deputy Director of Administrative Services, UDC, who presented the report on prison capacity. Mr. Cook also recognized Mr. London Strongberg, Deputy Director of Operations, UDC, seated in the audience.

Mr. Haddon explained the "Male Inmate Capacity and Projection: July 2013 to July 2018" and "Female Inmate Capacity and Projection: July 2013 to July 2018" charts and supporting data. Statute defines operational capacity at 96.5 percent of the total number of funded beds, and release capacity is at 98 percent. The UDC is currently projecting about 9 additional males per month or 108 males per year increase. For females, UDC projects about 2 additional females per month or 24 females per year increase. These figures are used to project the number of additional contract beds the UDC will need to stay below operational capacity.

Mr. Haddon discussed the background funding information for jail contracting calculations. The total appropriation for FY 2014 including a \$2.7 million one-time appropriation for jail contracting was approximately \$28 million or 1,696 beds. The current jail contracting rate calculation is \$46.85.

Mr. Haddon also discussed the projected out-year appropriations requests for jail contracting for FY 2015 - FY 2018. In FY 2015 he projects a funding increase of \$4 million that includes the \$2.7 million one-time appropriation for FY 2014. In FY 2017 and FY 2018, the funding increase will be lower due to the potential opening of a 192-bed facility at the Gunnison prison site.

Co-Chair Brown asked if any increase in the jail contracting rate calculation would cause the projected out-year appropriations requests to rise. Mr. Haddon confirmed that it would.

Sen. Jones asked about the substance abuse rate in our jails. Mr. Haddon stated that about 70 to 80 percent of the inmate population has an underlying substance abuse problem. He identified a number of treatment programs that inmates have access to.

Rep. Wilson asked about the cost of 192-bed facility at the Gunnison prison site. Mr. Haddon said that he is in the process of updating the figures, but it will cost about \$37 million.

Rep. Wilson asked about the urgency of funding the \$37 million 192-bed facility next year or if we continue to contract for jail beds.

Mr. Cook stated that the UDC is meeting with the sheriffs tomorrow to discuss how can we expand the use of jail beds.

Rep. Cosgrove asked for a clarification on the percent of daily rate paid for contracting.

7. Public Education Report on Minimum School Program Balances

Mr. Bruce Williams, Associate Superintendent for Business Services, Utah State Office of Education (USOE), discussed the FY 2013 nonlapsing balances in the Minimum School Program for the Voted and Board Levy Guarantee Programs and the Necessarily Existent Small Schools Program.

For the Voted and Board Levy Guarantee Programs, provisions of H.B. 49 state that if a prior year funding balance exists, the USOE is directed to use the funding balance to increase the value of the state guarantee per Weighted Pupil Unit (WPU). For FY 2012-2013, the USOE determined that the carry-over balance was \$20,898,905. Therefore, the guarantee per WPU was increased from \$27.36 to \$29.51. On June 12, 2013, the USOE notified the districts of the additional one-time funds. The USOE cautioned the

districts that the rate could drop back down in FY 2015 to the statutory rate if there were no carry over funds in FY 2014.

Mr. Williams referred to the Voted and Board Local Levy spreadsheet that was distributed to the school districts showing the calculated allocations for FY 2014 using the newly established state guarantee amount.

For the Necessarily Existent Small Schools Program, provisions of H.B. 173 state that if a prior year funding balance exists, the State Board of Education may distribute the funding balance based on a formula which considers the tax effort of a local school board. The USOE had determined that the carry-over balance from FY 2012-2013 has a \$0 balance. Therefore, no additional revenue is available to distribute based on tax effort.

8. Higher Education Report on Mission-based Funding

Commissioner Mr. David Buhler, Utah State Higher Education (USHE), gave a brief overview of a 26-page report on “Mission Based Funding: Distinctive Mission Initiatives.” During the 2013 General Session, the Legislature appropriated \$9 million for Distinctive Mission and \$9 million for Funding Equity. The report focused on the funding for Distinctive Initiatives, which allows the presidents to fulfill statewide priorities set by the Board of Regents. Those priorities include participation, completion, and economic development. This year, 49 percent or \$4.3 million of the \$9 million went toward initiatives to increase completion, 40 percent or \$3.5 million for initiatives for participation, and 10 percent or \$900,000 for economic development.

Mr. Buhler stated that these are very important monies and the presidents will be able to use these funds to enhance the opportunities for Utahns to gain a higher education. As far as accountability is concerned, the USHE is required to report the use of these funds to the Legislature and to the Higher Education Appropriations Subcommittee annually. The report provides a lot of detail including the description, rationale, outcomes, assessment criteria, and budgetary plan for each initiative.

Speaker Lockhart observed that so much of the money for the Distinctive Mission Initiatives is in new FTE. She asked for an explanation. Speaker Lockhart also noted that \$250,000 of the \$322,000 designated to the State Board of Regents/Commissioner Initiatives is going to compensation. She wanted to know if the money is being spent on new FTEs and if there were any performance measures associated with this money. Mr. Buhler responded that most of the funds go to hiring faculty or staff to help them complete their missions. The institutions have taken on about 16,000 students since 2008 during a time when budgets were going down with the exception of the last two years. In general, 85 percent of the higher education budgets are made up of personnel. As far as the State Board of Regents/Commissioner Initiatives are concerned, Mr. Buhler said that he would be happy to provide some additional detail of outcomes. In most cases the money is being used to replace one-time funds to be able to provide support to the institutions. The Board plans on hiring one additional person with this money.

In looking at the report, Rep. Chavez-Houck observed some differences in the outputs vs. outcomes in some of the assessments. It may be difficult to compare whether the initiatives are really effective if the outcomes are different. She was very impressed with some of the initiatives and felt that there may be an opportunity for the institutions to benefit by sharing best practices.

9. Dixie State College [Agenda Item 10]

Mr. Nadauld, President, Dixie State College, distributed and discussed the handout “Dixie State University, University Status Progress.” He expressed his appreciation for the \$1.5 million that the Legislature has appropriated thus far to help Dixie transition to university status. The handout outlines Dixie’s transition progress using the \$1.5 million and the need for an additional \$2.5 million. Mr. Nadauld noted that the Utah System of Higher Education (USHE) had proposed \$4 million for the transition in its budget proposal for FY 2013-2014.

President Nadauld called attention to a chart that breaks out current and proposed funding by category. He discussed instruction and curriculum development, the Center for Teaching and Learning, new instructor training, hiring new faculty, adding classroom equipment and computers, and core infrastructure personnel and facilities.

Rep. Ipson commended President Nadauld and his staff on the great job they have done thus far as Dixie State College transitions to university status.

10. UCAT Report on Campus Capacity Building [Agenda Item 9]

Mr. Tyler Brinkerhoff, Vice President, Finance and Administrative Services, Utah College of Applied Technology (UCAT), was joined by Mr. Jared Haines, Vice President, Instruction and Student Services, UCAT. Mr. Brinkerhoff briefly discussed UCAT’s postsecondary certificate goals and efforts to increase campus capacity systemwide.

In FY 2013, the Legislature appropriated \$5 million to increase campus capacity. UCAT, working in conjunction with local employer advisory groups, identified existing programs that are in high demand, have great completion and job placement rates, and command excellent starting salaries. The campuses have also looked at funding programs that are not yet available on certain campuses.

Rep. Wilson asked how the economy has impacted enrollment growth and if the expansion of nursing and other health related programs would help fill the enrollment gap. Mr. Brinkerhoff responded that enrollment increased significantly when the recession first hit. Over the last couple of years however, enrollment has leveled off. UCAT anticipates that enrollment will continue to increase with program expansion. Mr. Brinkerhoff commented that all of the campuses currently offer certificates in some health field or another but some campuses have identified new areas of demand. Mr. Brinkerhoff noted that all of UCAT’s programs are industry driven and that the regional employer advisory groups have been very helpful in identifying local needs.

Speaker Lockhart asked if there were any private nail technician programs in the Tooele area, observing that the Tooele Applied Technology College (TATC) was beginning a new nail technician program. Mr. Haines said that he was not aware of any nail technician programs in Tooele County. The new nail technician program would be part of the TATC’s broader cosmetology program that is offered in partnership with the school district.

Speaker Lockhart commented that the ATC’s programs offer a duplication of services in each of the regional areas. Mr. Brinkerhoff felt that even though these programs are a duplication of services, they

are a good use of tax payer dollars. The programs are tailored to meet the needs of the local economy and are accessible to the communities.

Sen. Mayne commented on the closing of the Salt Lake Community College's cosmetology program in deference to private cosmetology schools in Salt Lake County. She also encouraged the promotion of ATCs especially when they give people a full time career that will help them sustain their livelihoods.

11. TIME CERTAIN - State Settlement Agreement Appropriation

This item was heard earlier.

12. Other Business

Co-Chair Brown indicated that the Rocky Mountain Center for Occupational and Environmental Health had submitted its annual written report, "Assessment Offset for Donations Promoting Occupational Health and Safety."

MOTION: Vice Chair Stevenson moved to adjourn. The motion passed with Sen. Adams, Sen. Hillyard, Sen. Knudson, and Sen. Robles absent for the vote.

Co-Chair Brown adjourned the meeting at 3:14 p.m.