

**MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE**

Tuesday, November 19, 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 Hillyard called the meeting to order at 1:36 p.m.

MOTION: Rep. Brown moved to approve the minutes of the October 15, 2013 meeting. The motion passed unanimously with Sen. Adams, President Niederhauser, Sen. Robles, Sen. Stevenson, Rep. Dee, and Speaker Lockhart absent for the vote.

2 Environmental Protection Defense Fund

Sen. David Hinkins introduced Mr. Jeff Hartley, Utah energy lobbyist, who discussed a proposal to create a fund that would finance efforts to collect data and oppose federal decisions that would have a negative impact on Utah's economy.

Mr. Hartley explained that Utah should be prepared to fight a legal battle with the U.S. Fish and Wildlife Service (USFWS) over the potential listing of the Greater Sage-Grouse in 2015 and the beardtongue or pestemon flower. Mr. Hartley pointed out that the potential listing of endangered species and nonattainment air quality issues creates great uncertainty for developers. Utah runs the risk of losing hundreds of millions of dollars in revenue that are locked up because you can't access the land for production.

Mr. Hartley recommended that the state create a fund to support data collection projects and hire attorneys who can argue these types of cases. He proposed setting up an Environmental Protection Defense Fund supported by one-time appropriations, which could be housed in the Public Lands Coordinating Council or SITLA or perhaps some other agency.

Sen. Hinkins and Mr. Hartley responded to committee questions regarding Greater Sage-Grouse management strategies, funding for research and program implementation, improving air quality, and protecting energy production in the Uintah Basin.

3. Update of Prison Relocation and Development Authority Activities

Rep. Brad R. Wilson distributed “PRADA - Legislative Update - November 2013,” and provided a brief update on the prison location.

By way of background, during the 2013 General Session, the Legislature passed S.B. 72, “Prison Relocation and Development Amendments,” which modified the Prison Relocation and Development Authority (PRADA). The bill required PRADA to “issue a request for proposals inviting persons to submit proposals on a new prison development project, current prison land development project, or master development project.”

Rep. Wilson reported that PRADA has met nine times and toured three prison facilities in Utah and four in Arizona. PRADA hired an executive secretary, an appraiser to determine the value of the property in Draper, a cost estimator to determine what costs the state will incur to bring the Draper facility up to proper standards, and a programming consultant (MGT of America).

Rep. Wilson indicated that the board prepared a RFP requesting bids for a new prison facility and for developing the property in Draper. The RFP was sent to the Governor for his approval but the Governor did not sign the RFP. Subsequently, PRADA asked the programming consultant to continue to study the issues and come back with recommendations in the spring. Rep. Wilson referred to the time line, “DRAFT - Timeline to Award of PHASE 1 Design/Build RFP.”

Mr. Lane Summerhays, Chair, PRADA Board, expects that a master plan will be available by the 2014 General Session. This will help legislators decide whether to fund more corrections beds at Gunnison or take an alternate course of action. He anticipates that PRADA will make a final recommendation for the 2015 General Session.

Rep. Hughes asked clarifying questions about the legislation and the RFP. He spoke on the openness and transparency of the PRADA process and said that he was anxious to see PRADA’s good work come to fruition.

Rep. Seelig asked if PRADA had incorporated information used by corrections models across the nation. Mr. Summerhays stated that MGT’s research on public and private facilities has a nationwide scope. He said that MGT is the exact, perfect company to help Utah make a 70-year decision.

Rep. Dee was concerned that the “window of opportunity” is nearly shut for this project. He asked where the tipping point is when this project becomes a major cost to the state of Utah.

President Niederhauser said that it would be important to get a master plan in place first before talking about any immediate or long term needs. Mr. Summerhays concurred with President Niederhauser and was hopeful that a master plan would be available to the Legislature in the 2014 General Session.

President Niederhauser also inquired about the condition of the Draper Prison and how long we have before we have to rebuild it. Rep. Wilson responded that a cost estimator is currently determining how much it will cost to bring the prison up to standard, but he suggested that over the next decade, it may cost between \$100 million to \$200 million in renovations to keep the Draper Prison at the same size.

Sen. Mayne appreciated the board's watchful eye in this matter.

Mr. Summerhays felt that judicial review should be an essential part of this project.

Sen. Adams encouraged PRADA to move forward with the RFP, which will provide the data and the information needed to make decisions and work within the market place.

Rep. Wilson said that the PRADA board has not taken any official action on recommending or not recommending Gunnison. He felt that making that decision was premature. He agreed that it would be important to get the RFP out as soon as possible. Rep. Wilson noted that the PRADA board, CCJJ, the Department of Corrections, and the Governor's Office are taking this issue very seriously and are trying to make the best decision they can. He stated that the process is going a bit slower than they had anticipated.

4. LFA In-depth Budget Review: Off-budget Funds and Operations

Mr. Ball thanked the Division of Finance, GOMB, and state agencies for their input on the in-depth budget review. He also recognized Mr. Russell Frandsen, Team Lead, and Ms. Florian Hernandez, Intern, and the entire LFA staff.

The "Review of "Off-budget" Funds and Operations" inventories 457 state funds, operations, and tax incentives that are not currently included in the appropriations process and makes recommendations for each of these "off-budget" items. Budget recommendations and process changes can be found in the Executive Summary of the report.

Mr. Russell Frandsen cited the Pelt Case settlement as one example of an "off-budget" fund that is treated outside the appropriations process with little or no reporting requirements that could be treated differently.

Mr. Frandsen stated that of the 324 "off-budget" funds and operations, 145 or 45 percent of them have recommendations for improvement. He reviewed the criteria for fiscal analyst review and discussed six recommendations and five process changes using fund examples from the in-depth review.

Ms. Hernandez discussed Fund 2165 Salinity Offset Fund to illustrate an instance where a fund was spending more on administration than allowed by law.

Rep. Briscoe asked clarifying questions regarding the bonding for a capital project within the Capital Projects Fund not identified in the "off-budget" funds.

Co-Chair Hillyard commented that the in-depth budget review gives illumination to our budget process. He thanked staff for their hard work.

MOTION: Rep. Brown moved the following:

1. Direct staff to open bill files as deemed necessary to implement Recommendations #1 and #2, and Process Change #1.

2. Direct staff to draft a letter to the Governor's Office of Management and Budget and the Division of Finance, asking them to take action on Recommendations #1, #2, and #4, and Process Change #2.
3. Refer Recommendation #6 to the Retirement and Independent Entities committee for further action.
4. Direct legislative staff to work with this committee's co-chairs as necessary to :
 - a. Identify ways to move the 53 funds in Recommendation #2 to the appropriations process;
 - b. Refer the 45 funds in Recommendation #3 to appropriations subcommittees to consider statutory changes;
 - c. Broaden the scope of the annual Preliminary Fund Balance Report as stated Process Change #3.
 - d. Change the legislative drafting manual, as deemed necessary, to implement Process Change #4.
 - e. Expand the funds and liabilities reporting as stated in Recommendation #5; and
 - f. Identify possible bills and bill sponsors necessary to enact remaining recommendations as deemed appropriate by the EAC Chairs.

The motion passed unanimously with Sen. Davis, Sen. Jones, President Niederhauser, and Rep. Dee absent for the vote.

5. GOMB In-depth Budget Review: Department of Veterans' and Military Affairs

Ms. Tanielle Young and Ms. Jill Flygare, Financial Operations Specialists, GOMB, presented "Department of Veterans' and Military Affairs In-Depth Budget Review."

Ms. Young reviewed the following four recommendations outlined on page 3 of the report:

1. Move the Charitable Trust Foundation bank account to be under the guidelines of the State of Utah. (This was completed in August 2013).
2. Create multiple units within Veterans' Nursing Home Fund to differentiate donations made to each of the four homes. (This was completed in June 2013).
3. Consider moving financial responsibilities from the department to the Division of Finance.
4. Generate a greater focus on measures that will lead to connections with improved performance.

Rep. Hughes stated that the Department of Veterans' and Military Affairs should continue directing its budgetary operations, but he was not opposed to seeking assistance from the Division of Finance to help the department with its budgetary processes.

6. Dynamic Fiscal Notes

Mr. Ball explained that in the last October 2012 meeting, the EAC adopted a motion to direct the LFA to implement a pilot program on dynamic fiscal notes limited to Revenue and Taxation Interim Committee bills in 2013. Since the interim committee did not consider any bills, the LFA prepared dynamic fiscal notes on two other bills: one pertaining to a manufacturing sales tax exemption, and another, eliminating the personal exemption component of the taxpayer tax credit calculation.

Mr. Ball briefly explained the differences between a static fiscal note, a dynamic fiscal note, and a cost/benefit analysis. A dynamic fiscal note captures the behavioral changes and the opportunity costs associated with a policy change. Mr. Ball stated that dynamic fiscal notes are probably more accurate and relevant for policymakers, but present a higher risk when it comes to budgeting.

Dr. Thomas Young, Economist, LFA, used the example of the manufacturing sales tax exemption to illustrate what a dynamic fiscal note might look like compared to a static fiscal note in four different investment scenarios. He used REMI, a structural forecasting software, and various statistical models to analyze the potential effects a policy change might have on revenues, economic activity, jobs and wages.

Mr. Ball commented that while it is difficult for a dynamic fiscal note to show that for every dollar spent you get back a dollar in revenue, there may be some added benefit in terms of investment in the economy, stronger growth patterns, and more jobs. He noted that dynamic fiscal notes are time consuming and that current staff could probably do 10 to 20 dynamic fiscal notes a year, preferably during the interim. For this pilot project, the LFA was able to use the REMI model for free. Mr. Ball projected that the cost of doing dynamic fiscal notes on a regular basis would cost anywhere from \$55,000-\$120,000 on the low end to \$158,000-\$500,000 on the high end to pay for software, data, and staff.

Rep. Cosgrove recognized the added benefits of having dynamic fiscal notes.

7. Internal Service Funds Review Follow-up

Co-Chair Hillyard said that he was going to bypass this item.

8. Taxpayer Receipt Website [Agenda Item 9]

Mr. Ball explained that during the 2013 General Session, the Legislature passed S.B. 129, Amendments to Powers, Functions, and Duties of Office of the Legislative Fiscal Analyst (*B Wilson*). This legislation authorized the LFA to 1) develop a taxpayer receipt website that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and 2) publish or provide other information on taxation and government expenditures that may be accessed by the public. In order to fulfill these requirements, the LFA contracted with Utah Interactive.

Mr. Michael Rice, Project Manager, Utah Interactive, demonstrated how the taxpayer receipt website operates. The website can be accessed at www.utah.gov/taxpayer-receipt.

Rep. Wilson commented that the website had exceeded his expectations. The next challenge will be to get this website in the hands of our citizens.

9. Significant Factors Driving 2014 General Session Budget Requests [Agenda Item 8]

Mr. Ball presented “Factors Driving the Budget” that includes a list of major cost drivers that will underlie budget negotiations in the 2014 General Session.

Some potential ongoing General/Education Fund costs include the following: an increase in employee salaries and benefits, a 3 percent Weighted Pupil Unit value increase, public education enrollment growth costs, building maintenance costs, Medicaid growth, corrections (contracting/reimbursement), Internal Service Fund cost increases, and a structural imbalance. In total, these costs are expected to be between \$282 million to \$317 million ongoing.

Potential one-time General/Education Fund costs include the following: design and engineering costs for buildings, restoring rainy day and disaster reserves to pre-recession levels, teacher supplies and materials, repay rainy day funds for settlements, and the Juror, Witness, Interpreter deficit. One-time costs total between \$214 million to \$224 million before other discretionary one-time programmatic increases.

For comparison purposes, Mr. Ball pointed out that last month’s revenue update show that there is a \$122 million one-time budget surplus for FY 2013. In addition, General Fund/Education Fund revenues may range between \$130 million below to \$70 million above the May 2013 estimates.

Co-Chair Hillyard said that the committee would discuss Medicaid growth and public education enrollment costs next month.

Co-Chair Hillyard said that it is important to clarify the difference between ongoing and one-time money

10. Other Business

Co-Chair Hillyard called attention to two written reports behind Tab 10, “ Report on Services to Low-Income Individuals and Families” and “Updated Turnover Savings Calculations for the 2014 General Session.” He encouraged committee members to read the reports.

Co-Chair Hillyard stated that the next EAC meeting would be held on December 10, 2013 at 1:30 p.m.

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

Co-Chair Hillyard adjourned the meeting at 3:43 p.m.