

**MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE**
Tuesday, June 17, 2014 - 1:00 p.m. - Room 210 Senate Building

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
Sen. Karen Mayne
President Wayne L. Niederhauser
Sen. Ralph Okerlund
Sen. Luz Robles
Rep. Joel K. Briscoe

Rep. Rebecca Chavez-Houck
Rep. Tim M. Cosgrove
Rep. Brad L. Dee
Rep. Don L. Ipson
Rep. Jennifer M. Seelig

Members Excused:

Speaker Rebecca D. Lockhart
Rep. Gregory H. Hughes

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 1:48 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of May 20, 2014. The motion passed unanimously with Sen. Adams, Sen. Mayne, President Niederhauser, Sen. Robles, Rep. Dee, Rep. Ipson, and Rep. Seelig absent for the vote.

2. Federal/Non-federal Grants

Mr. Evan Curtis, Governor's Office of Management and Budget (GOMB), presented the Federal/Non-Federal Grants Report dated June 17, 2014. Under federal grants, there were eight new grants and one new reapplication/continuation of an existing grant requiring legislative action. The Governor's Office approved five new grants and two reapplications/continuations of existing grants.

Under non-federal grants, there were two new grants and one new reapplication/continuation of an existing grant requiring legislative action. The Governor's Office approved one new grant.

Sen. Hillyard warned that when people accept federal money, they shouldn't expect the state to pick it up once the federal money goes away.

MOTION: Sen. Hillyard moved to recommend acceptance of the federal and non-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, June 17, 2014. The motion passed unanimously with Sen. Adams, Sen. Mayne, President Niederhauser, Sen. Robles, and Rep. Dee absent for the vote.

3. Science, Technology, Engineering, and Math (STEM) Funding

Mr. Stephen Jardine, Fiscal Analyst, LFA, presented the Issue Brief, “Workforce Services STEM Initiative.” He provided some background information in regards to the Department of Workforces Services (DWS) announcement to use \$5.0 million of excess Temporary Assistance for Needy Families (TANF) funding to offer STEM after-school grants.

Mr. Jardine pointed out that by state statute, TANF funding is exempt from the monthly federal funds review process.

During the 2014 General Session, DWS indicated that it had \$107 million in unspent flexible TANF federal grant money. In response, the Legislature reviewed possible uses for the excess TANF funding and eventually authorized \$17.3 million in additional TANF funding along with intent language. The Legislature also authorized \$1.0 million from a restricted fund (Special Administrative Expense Account) for a K-12 STEM in-school grant program. The \$5.0 million STEM after-school grant initiative was not part of these deliberations.

On May 7, 2014, DWS announced two new STEM grants: 1) \$1.0 million using Special Administrative Expense Account funding (which had been reviewed and authorized by the Social Services Appropriations Subcommittee); and 2) \$5.0 million using excess TANF funds (which had not been reviewed or discussed before any legislative committee.)

Mr. Jardine raised the following questions: 1) Would knowing about the \$5.0 million in TANF funds for STEM have changed the Legislature’s recommendations or decisions with regard to STEM during the General Session? 2) How are the DWS and the Governor’s Office of Economic Development STEM efforts coordinated? 3) Should the remaining TANF funds be subject to legislative review as the \$1.0 million restricted fund, and the \$20 million STEM General Fund?

a. DWS Report on \$6 million TANF money

Mr. Geoff Landward, Deputy Director, DWS, pointed that what is being called as the “STEM Initiative” for DWS is really an after school initiative, which is not uncommon with what DWS has typically done with TANF funds. In this case, DWS has identified some areas with at-risk youth and offer after school programs with an emphasis on STEM curriculum.

Mr. Landward went onto to explain that the \$1 million in the Special Administrative Expense Account will fund an in-school program. The Legislature passed intent language asking DWS to find new and innovative ways to spend some of the excess TANF money. Mr. Landward stated that the opportunity to expand its after school programs with a STEM emphasis presented itself as exactly what the Legislature intended. As far as oversight is concerned, DWS is willing to be as collaborative as possible and is committed to keeping the Social Services Appropriations Subcommittee, the EAC, and the Legislature informed about what DWS is doing with TANF funds.

In response to committee questions, Mr. Landward said that DWS is very vigilant on how it is uses TANF funding. In the event that DWS was audited and found to have used monies improperly, DWS might have to pay the money back, or run the risk of having the grant taken away. Mr. Landward

explained that the \$5.0 million STEM grant provides funding for after school programs. The grant will be administered internally. DWS will work in collaboration with the STEM Action Center and the Utah State Office of Education to avoid duplication of effort and ensure a quality product.

Rep. Wilson commented that TANF has a rigorous auditing process. He appreciated what DWS has been able to do in getting people to work. He was thrilled that DWS has chosen to focus these after school programs on STEM. Rep. Wilson stated that the TANF money is not being used in competition with other programs, and in particular, the STEM Action Center.

Rep. Chavez-Houck was interested in after school programs where parents and children can learn together. She also inquired about the status of the BIG program.

Ms. Tami Goetz, Director, STEM Action Center, stated that the BIG program is still in operation and is an excellent model for engaging kids in problem solving and project-based learning. The STEM Action Center will be looking at incorporating some of the program's components.

Rep. Briscoe inquired about the proposed grant pathway that requires applicants to identify the percentage of free and reduced lunch participants within their jurisdiction.

b. GOED Report on Use of 2013 G.S. Appropriations

Ms. Tami Goetz, Director, STEM Action Center, briefly referred to a slide presentation, "Curiosity Unleashed, STEM Action Center," that provides a status update on the STEM Action Center funding from H.B. 139 (2013 General Session) and H.B. 150 (2014 General Session) as well as the DWS Grant Partnership. She stated that due to time constraints she wouldn't go through the presentation but would be open to questions.

Rep. Briscoe asked Ms. Goetz to elaborate on the \$5.0 million ongoing funding (H.B. 150) to support K-12 professional development.

Sen. Stevenson asked some clarifying questions about the coordinating efforts of the STEM Action Center with the DWS after school initiative and the use of TANF funds. Mr. Landward felt that better communication with the Legislature and legislative staff would help avoid any future misunderstandings.

Ms. Goetz stated that DWS reached out to the STEM Action Center to avoid overlapping of services.

Co-Chair Brown suggested that the committee hear a report on the TANF funding next year.

4. Revenue Update

Dr. Andrea Wilko, Chief Economist, LFA, and Dr. Thomas Young, Economist, LFA, presented the "Revenue Update," for June 2014. The report structure included a range forecast for FY 2014, tax collections, economic indicators, global risks, and revenue trends.

Consensus estimates indicate that the General Fund/Education Fund collections will end FY 2014 between \$25 million and \$150 million above the May 2014 target. Dr. Wilko pointed out that this

revenue surplus did not include one additional period of collections, deposits to the Rainy Day Fund, or adjustments for expenditures.

General Fund revenue is expected to be from \$25 million below to \$25 million above targets, and the Education Fund is expected to be from \$50 million to \$125 million above the May target. Dr. Wilko attributed the growth in the Education Fund to net final payments coming in above expectations. Based on recent trends, the Transportation Fund is expected to be \$5 million below to \$10 million above targets.

Dr. Wilko discussed economic indicators that impact long term growth including employment, wages, and household formations. Currently employment is growing at 3.1 percent. Dr. Wilko noted that the number of individuals working part time for economic reasons is still well above historical levels. Wages have been floating at about 2 percent for the last five years. Finally, there has been a decline in households per population, particularly for the under 35 age category. Dr. Wilko indicated that these factors could impact growth going forward.

Dr. Young discussed global risks. He referred to the depiction, "Share of Global GDP 2019" as compared to "Share of Global GDP 1990." In 1990, the wealth of the world and the associated production of output was heavily concentrated in the United States. Over the past 20 years, the wealth of the world has shifted east, with business output in China expected to surpass the United States by 2019.

Dr. Young stated that current forecasts have both upside and downside risks. One upside risk is real estate, which is anticipated to represent a larger portion of the overall economy in 2015. On the other hand, economic conditions in Europe and worsening unemployment pose a downside risk.

Dr. Young called attention to the revenue collections chart for the General Fund/Education Fund and the Transportation Fund on page 8 of the report. He stated that overall, collections are above target and that the final budget surplus (revenues and expenditures) won't be known until the September/October time frame.

In accordance with H.B. 311, "Budgeting Amendments," Dr. Young reported on trends associated with revenue projections. He discussed the advantages and disadvantages of the pure linear trend model, a weighted linear trend model, cycle & trend model, and a percentage trend model. Dr. Young recommended the cycle & trend model because it responds to one-time changes, has lower volatility, gives an indication of where we are in the business cycle, and even though it is complex, it can be implemented easily.

Rep. Cosgrove asked if the projection for the Education Fund, \$50 million to \$150 million above the May FY 2014 target, puts the state back on track to where it was prior to 2008. Dr. Wilko confirmed that nominal collections were back up to the 2007 level.

MOTION: Rep. Wilson moved to adopt the cycle & trend model as our primary forecasting tool and secondarily, the linear trend model as a back up.

Rep. Wilson explained that by using the two trends in combination, we would get better data and information.

Rep. Briscoe asked a clarifying question about the subjective judgment occurrence factor when comparing trends in terms of the intercept, weight, and filter parameters.

The motion passed unanimously with Sen. Knudson absent for the vote.

5. Basic Rate and Voted/Board Leeway Estimates and Collections

Dr. Thomas Young discussed the presentation, “Basic Rate and Voted & Board - Estimates, Actuals, and the Connection between Property Tax Underestimates and Over-Appropriation.” He explained that the Basic Rate estimate and the Voted & Board leeways estimates are based upon projected property values and student enrollment. The Legislature includes these estimates in appropriations bills to satisfy the basic rate revenue target and state guarantee programs.

Dr. Young noted that for the past twelve years, actual revenue collections have exceeded the statutory revenue target. He stated that when the common data committee underestimates collections from property taxes, the Legislature ends up over-appropriating income tax. For the Basic Rate, left over income tax is used for legislative priorities in the following year. For the Voted & Board leeways, any over-appropriation of income tax automatically goes to school districts. Dr. Young stated that in each of the past four years, we’ve underestimated property tax and over-appropriated income tax by \$17 million to \$38 million.

Dr. Young stated that in 2013, the estimating methodologies on the Basic Rate and the Voted & Board leeways were changed to improve accuracy. He stated that the new estimates are more accurate. However, for FY 2014, there will be \$13 million left over due to the Basic Rate over-collection and \$4 million will be distributed to the school districts under the Voted & Board leeways due to the over-appropriation.

Co-Chair Hillyard asked a clarification on the state guarantees program and how any over-appropriation is distributed to the various school districts.

Co-Chair Brown relinquished the chair to Sen. Hillyard at approximately 3:00 p.m.

Sen. Adams asked if there might be a better way to redistribute the over-collection of property taxes.

6. USOE SAGE Test Questions Sales

Mr. Ben Leishman, Fiscal Analyst, LFA, presented the Issue Brief, “Leasing of SAGE Online Adaptive Test Questions,” which provides some background information, budgetary and contract highlights, and the potential impacts on the Utah State Office of Education (USOE) budget.

Mr. Leishman explained that earlier this year, the USOE received a request from Florida to lease Utah’s SAGE (Student Assessment of Growth and Excellence) test questions. Florida had also contracted with the American Institutes for Research (AIR), the same contractor assisting in Utah’s SAGE system, to develop a similar assessment system. Mr. Leishman stated that Florida needed a short term bridge until its system was fully up and running.

Mr. Leishman posed the following questions for the committee's consideration: 1) Does the sale or lease of this state asset fit within the legislative intent governing the program? 2) How does the sale or lease of this state asset impact the integrity of the SAGE system? 3) What direction would the Legislature like to provide the State Board of Education regarding the use of the estimated \$5.4 to \$16.2 million in contract savings?

Mr. Dave Crandall, Chair, Utah State Board of Education, discussed the lease agreement between Utah and Florida. He explained that Florida was interested in getting a lower rate on their contract and AIR suggested that Florida approach the State of Utah about leasing their test questions. Since then, the USOE has created an agreement with AIR that allows Florida to use Utah's test questions for assessments. Florida has preliminarily agreed to a price-point of \$1.50 per student per test, which could generate up to \$5.4 million per year or \$16.2 million with a three-year contract. Mr. Crandall indicated that these payments could be used to offset Utah's contract with AIR.

Mr. Crandall stated that Utah maintains ownership and has complete control of all test items. The items that the USOE is developing for the SAGE assessment are specifically for Utah and undergo review by several committees.

Co-Chair Hillyard indicated that in the absence of Rep. Brown, the committee would not be hearing agenda item 9, SITLA Budget Oversight.

7. DNR Sage Grouse Contract

Mr. Ivan Djambov, Fiscal Analyst, LFA, discussed the listing of the sage grouse as an endangered species. He indicated that projections show that if the U.S. Fish and Wildlife Services lists the sage grouse, Utah's economy will be impacted negatively to the tune of several billions of dollars a year. The listing has been of major concern for the Legislature.

Mr. Djambov indicated that during the 2014 General Session, the Legislature appropriated \$2 million one-time from the General Fund to the Department of Natural Resources (DNR) to be used for delaying a possible sage grouse listing. The Legislature intended that DNR hire one or more contractors who will use the funding for three purposes: 1) legal strategies; 2) educating members of Congress; and 3) engaging the public in the process. The intent language also has a requirement for quarterly reporting. The contract was awarded in May 2014.

Mr. Kent Beers, DAS, Division of State Purchasing, explained the process the state went through to select a contractor. He confirmed that the RFP process followed the Utah Procurement Code with precision. The division posted the RFP on the state's electronic bidding system and received three quality responses. An evaluation committee selected the firm that provided the strongest strategies meeting the intent of the legislation and offered the best value to the State of Utah.

Mr. Mike Styler, Executive Director, DNR, stated that the contract begins on July 1, 2014. Even though there is a significant amount of work that needs to be done, the state cannot pay for the work until after July 1. Mr. Styler said that the contractors are out trying to raise private funds in order to begin work on this project.

8. SITLA Budget Oversight

This agenda item was not heard.

9. Autism Coverage Implementation Reports

a. PEHP

Mr. Brian Fay, Fiscal Analyst, LFA, explained that during the 2012 General Session, the Legislature passed H. B. 272, "Pilot Program for Autism Spectrum Disorders Services," which created a two-year pilot program to provide autism treatment services through the Public Employees Health Program (PEHP), the Medicaid Autism Waiver, and the Autism Treatment Restricted Account.

Mr. Fay stated that PEHP estimated that the pilot program would cost approximately \$1.1 million per year. The original estimate was based on the Center for Disease Control estimation of prevalence of 1 in 110 children being affected by autism spectrum disorder and a \$30,000 cost based on a 2007 academic study. Mr. Fay reported that through the course of the pilot, PEHP saw about half as many children as they had originally expected and the costs to treat these children were just over half the projection. The pilot drew 23 children at an annual cost of \$13,500.

During the 2014 General Session, the Legislature passed H.B. 88, "Autism Program Amendments," which converted the two-year pilot into an ongoing program. Using the data from the pilot program, PEHP estimates that the program will cost an average of \$365,000 per year over the next three years.

b. Department of Health

Mr. Russell Frandsen, Fiscal Analyst, LFA, reported on the Medicaid Autism Waiver and the Autism Treatment Account (ATA). The Waiver received \$4.5 million General Fund in FY 2013 and another \$4.5 million General Fund in FY 2014 to serve up to 500 children. The Waiver served 317 children at a cost of \$23,000 per child. Mr. Frandsen indicated that the original cost estimate per child was \$35,000.

The passage of H.B. 88, "Autism Program Amendments," 2014 General Session, converted the Waiver pilot program into a permanently funded ongoing program that will allow an average of 260 children to be enrolled in the program. The program received approximately \$1.8 million ongoing from the General Fund and \$4.2 million in ongoing federal funds to continue operations.

Mr. Frandsen also reported that the Legislature also appropriated \$1.8 million General Fund one-time to the ATA with the passing of H.B. 272. The funding has served about 35 children annually at a cost of \$21,500 per child. The ATA did not receive any new appropriations.

Agency Response

Mr. Chet Loftis, Executive Director, PEHP, confirmed that PEHP had been spending about \$13,500 per child per year to treat children with autism spectrum disorder. He observed that treatment can vary greatly. Mr. Loftis noted that once the pilot program ends, open enrollment for the ongoing program will begin absent any closing dates. He stated that PEHP ran the autism pilot program as a separate insurance

program. Going forward, PEHP plans to follow the guidelines set forth in H.B. 88. Mr. Loftis asked for some direction in regards to S.B. 57, "Autism Services Amendments," which also passed during the 2014 General Session. He said that there are some operational differences between H.B. 88 and S.B. 57 that need to be addressed.

Pres. Niederhauser suggested measuring the outcomes for each of these programs and looking for possible ways to consolidate and/or make changes to achieve consistency.

Mr. Michael Hales, Director, Utah Department of Health, elaborated on the success of the three pilot programs. He stated that the programs have served about 380 children and that base line measurements on functionality indicate that these children are improving. The department assesses the children when they come into the program and evaluates their progress at every six months. Having these performance metrics in place will allow the department to report back to the Legislature on program outcomes.

Mr. Hales also commented that the state has a new network of providers that can treat children with autism spectrum disorders, and families who pay for these services on their own, now have a broader network of providers that they can build upon and use in their individual families.

Sen. Adams made the comment that statistics show that if you catch autism spectrum disorder earlier, then perhaps the later need for services diminishes greatly, if not goes away. He was interested in learning more about the outcomes and supporting data. Mr. Hales indicated that he could meet with Sen. Adams after the meeting.

10. Other Business/Adjourn

MOTION: Sen. Stevenson moved to adjourn. The motion passed unanimously with Sen. Knudson and Rep. Brown absent for the vote.

Co-Chair Hillyard adjourned the meeting at 3:28 p.m.