

**MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE**

Tuesday, October 14, 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
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
Rep. Joel K. Briscoe
Rep. Rebecca Chavez-Houck
Rep. Tim M. Cosgrove

Rep. Brad L. Dee
Rep. Gregory H. Hughes
Rep. Don L. Ipson
Speaker Rebecca D. Lockhart
Rep. Jennifer M. Seelig

Members Excused:

Rep. Brad R. Wilson, Vice Chair
Sen. Luz Robles

Staff Present:

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

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 1:21 p.m. He announced that Sen. Robles was excused from the meeting.

MOTION: Sen. Hillyard moved to approve the minutes of September 16, 2014. The motion passed unanimously with President Niederhauser, Sen. Okerlund, Rep. Hughes, and Speaker Lockhart 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 October 14, 2014. There was one new federal grant and one new non-federal grant requiring legislative action. The Governor's Office approved three new federal grants.

MOTION: Sen. Hillyard moved to recommend the approval of the federal and non-federal grants as shown 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, October 14, 2014. The motion passed unanimously with Sen. Okerlund, Rep. Hughes, and Speaker Lockhart absent for the vote.

3. Introduction to New Dean of University of Utah Dental School

Dr. Glen Hansen, Interim Dean, University of Utah School of Dentistry, reported on the school's dental facilities, efforts to provide clinical dental services to under-served populations, the high quality of student applicants, the accreditation process, and establishing strong ties with the dental community.

Dr. Hansen noted that the School of Dentistry is near completion and that a ribbon cutting will take place in the spring of 2015.

Dr. James Becker, Associate Dean, University of Utah School of Dentistry, and President of the Utah Dental Association (UDA), commented on the growing support for the School of Dentistry within the dental community and read a brief statement from the UDA Board of Directors to that effect.

Dr. Hansen responded to committee questions regarding future class-size expansion, tuition subsidies for students who attend out-of-state schools, and the time-line for receiving full accreditation.

4. GOED Incentives Audit

Mr. John Dougall, State Auditor, offered some opening remarks and introduced audit team members.

Mr. Chris Otto, Audit Supervisor, State Auditor's Office, presented "A Performance Audit of GOED's Corporate Incentives Program."

Mr. Otto explained that the performance audit was conducted due to the significant amount of tax revenue the Governor's Office of Economic Development (GOED) is able to commit through its corporate incentives program. In addition, a number of stakeholders had expressed concerns over a lack of transparency at GOED, such as: impairments to budget forecasting, creating uncertainty in financial reporting, and limiting audit review.

The purpose of the audit was to determine the adequacy of controls over the corporate incentives process. Specifically, the audit focused on the Economic Development Tax Increment Financing or EDTIF Program, which is the primary vehicle that GOED uses to incent companies to expand in or relocate to the State.

The audit identifies three concerns supported by findings that demonstrate the need for greater program oversight, accountability, and transparency. The audit includes 32 recommendations directed to both GOED and the Utah State Legislature that fall into three main categories: 1) clarify the statute, 2) consistent, fair, and equitable program, and 3) transparent oversight.

Mr. David Pulsipher, Performance Audit Director, State Auditor's Office, and Mr. Otto responded to committee questions.

The committee discussed a variety of topics that included: job creation, county wage requirement, inconsistent use of techniques to justify EDTIF awards, the independent review performed by Tanner LLC, GOED's rule-making authority, inclusion of company-based health benefits, selection and composition of the Advisory Board, and wage definition.

State Auditor Dougall encouraged the committee to exercise its oversight authority to review corporate contracts and audio recordings to see if the program is operating the way the Legislature intended.

Audit Response

Mr. Val Hale, Executive Director, GOED, responded to the performance audit.

Mr. Hale introduced Ms. Theresa Foxley, Managing Director, Corporate Recruitment and Business Services, and Mr. Gerry Oldroyd, Chairman of the Incentives Subcommittee for GOED's Advisory Board.

The following handouts were distributed to the committee: "2014 Annual Report and Business Resource Guide," "Independent Accountant's Report on Applying Agreed-Upon-Procedures, Tanner LLC," and "Business and Film Economic Incentive Locations by Utah House District and Utah Senate District."

Mr. Hale highlighted a number of achievements associated with the EDTIF program job creation and new net revenues to the State. He remarked that many people, including himself, believe that the EDTIF program has played a significant role in Utah's economic recovery.

Mr. Hale explained that the EDTIF program offers a post-performance incentive and that the State does not provide a tax credit to companies until a new commercial project generates state tax revenue. He noted that in January 2014, certified public accountants with the firm of Haynie and Company calculated that EDTIF's return on investment was three to one.

Mr. Hale commented on EDTIF's flexibility to maneuver and tailor incentive offers to specific companies. He stated that the Tanner Report did not find any instances of noncompliance with relevant ethical, statutory, contractual or procedural requirements.

Mr. Hale stated that GOED has implemented or will implement some of the procedures recommended by the Tanner Report and the State Auditor. He felt very confident that GOED has been carrying out the EDTIF program within the statutory guidelines established by the Legislature.

Mr. Hale encouraged the committee to read GOED's response to the audit report. He stated that the primary difference between the Tanner Report and the State Auditor's audit is the interpretation of statute. He cited examples where the State Auditor's interpretation of statute differs from the Tanner Report.

Ms. Theresa Foxley, Managing Director, Corporate Recruitment and Business Services, responded to questions regarding availability of data that measure the impact of the incentives, projected jobs report, implementation of recommendations, average county wage requirement, procedures for establishing administrative rules and implementing new policies, and wages and health benefit comparisons.

Mr. Gerry Oldroyd, Chair, Incentives Subcommittee, GOED Advisory Board, responded to questions pertaining to the inclusion of health benefits to meet contractual requirements, administrative rule-making authority and internal guidelines, exceptions to the minimum county wage requirement, EDTIF's contributions to the economy, and program transparency.

Speaker Lockhart inquired about the time spent on the two reviews and the audit. Mr. Pulsipher stated that the Auditor spent about six months on the audit, working about 4,500 hours. The Tanner review

extended from two to three 3 weeks. Ms. Foxley stated that Tanner LLC spent about 277 hours on their report.

Co-Chair Brown relinquished the chair to Rep. Ipson.

Rep. Briscoe did not think that today's discussion on the audit report was productive. He stated that he would need to read both reports in order to better understand the issues.

Rep. Cosgrove expressed concern about the growing use of taxpayer money going toward corporate incentives. Mr. Hale reiterated EDTIF's three to one return on investment. Rep. Cosgrove also asked if the State Auditor had reviewed the Haynie Report and if the State Auditor had access to corporate contracts.

MOTION: Sen. Davis moved to refer the GOED Incentives Audit presented to the committee to the Business, Economic Development, and Labor Appropriations Subcommittee for further consideration. The motion passed unanimously with Sen. Okerlund, Sen. Adams, Sen. Mayne, and Rep. Brown absent for the vote.

5. Revenue Update

Dr. Andrea Wilko, Chief Economist, LFA, summarized the first page of the report, "Revenue Update" for October 14, 2014 as follows:

- Utah ended FY 2014 with a \$166 million General and Education Fund revenue surplus.
- After expenditure adjustments and transfers to the General and Education Rainy Day Funds, Disaster Recovery Fund, Medicaid Rainy Day Fund, and Industrial Assistance Fund, the FY 2014 budget surplus is \$112 million, \$7 million in General Fund and \$105 million in Education Fund.
- The revenue surplus can be attributed to stronger-than anticipated growth in sales tax and severance taxes, strong oil payments and corporate profits, and above target gross final payments.
- For FY 2015, General Fund and Education Fund revenues will be in the range of \$70 million to \$200 million above May targets.

Dr. Wilko and Dr. Thomas Young, Senior Economist, LFA, addressed Speaker Lockhart's questions regarding the "Revenue Risk Matrix" on page 7 of the report.

Mr. Ball pointed out that there is a significant amount of volatility in the state's income tax collections noting that the state is collecting more in final payments than in withholding taxes. He remarked that even though the economy feels good right now, the business cycle will come back around and now is the time to be thinking about the risks that could impact our economy.

6. FY 14 Preliminary Surplus, Closing Nonlapsing and Restricted Fund Balances

Mr. John Reidhead, Director, Division of Finance, presented the “State of Utah Financial Highlights” for fiscal year ending June 30, 2014.

The Division of Finance reported a net surplus of \$7.2 million in the General Fund and \$105.5 million in the Education Fund for FY 2014. These figures take into account the various transfers required by law.

The report also shows actual figures for major state revenue sources, expenditures, and fund transfers to the General and Education Budget Reserve Accounts, the Disaster Recovery Restricted Account, and the Medicaid Growth Stabilization Account.

Mr. Reidhead noted that this is the first year that money has been transferred into the Medicaid Growth Stabilization Account. He also mentioned that \$4.5 million was committed to the Industrial Assistance Fund but was not shown on the report.

Mr. Brian Wikle, Fiscal Analyst, LFA, presented the Issue Briefs: “FY 2014 Preliminary Lapsing and Nonlapsing Balances” and “FY 2014 Preliminary Fund Balances.” He reported that:

- As of October 6, 2014, the Division of Finance calculates that state agencies will lapse back \$22.5 million to the General and Education funds, and \$73.4 million to other funds for FY 2014.
- State agencies and public education will carry forward \$314.5 million from FY 2014 to FY 2015 as nonlapsing balances.
- As of October 6, 2014, preliminary fund balances in the General Fund restricted accounts total \$369.3 million, and preliminary fund balances in the Education Fund restricted accounts total \$693.4 million.

Mr. Wikle emphasized that the Division of Finance numbers are preliminary and will not be finalized until audited in November by the State Auditor.

Mr. Ball offered a word of caution about spending this money without first understanding why these balances are there, for what they might be intended, or how they can be used.

Co-Chair Hillyard commented on how useful the report is in the budgeting process.

7. School Grading

Mr. David Crandall, Chair, Utah State Board of Education, explained that in replacing the state’s long standing CRT assessment test system with the new SAGE assessment system, the Legislature recognized that the State Board of Education would need some latitude in calculating school grades for the 2013-2014 school year. Under the state’s grading system, school’s are given grades of A through F based on student achievement and progress as measured by state tests.

During the 2014 General Session, the Legislature passed S.B. 209, School Grading Revisions, granting the State School Board latitude to calculate school grades. The legislation stipulates that the State School Board shall submit one or more proposals to the Executive Appropriations Committee to adjust the maximum number of points required to earn A through F letter grades for the 2013-2014 school year.

The State School Board proposed adjusting the total possible points so that roughly the same percentage of schools would receive each letter grade A through F as the previous school year. Without this adjustment, under the school grading system, many Utah schools might earn a D or an F. President Niederhauser stated that he had met with Chairman Crandall to discuss the State School Board's proposal and felt that the proposal was probably the best option for this year. He commented that the new standards are more rigorous, but also, there have been some gains in student performance. He felt that in making the transition, there should be as little interruption as possible.

Rep. Hughes indicated that he would be interested in working with the State School Board and the stakeholders to make sure we measure correctly and accurately reflect how our students are doing based on the new standard.

Rep. Briscoe spoke in support of the new SAGE assessment system and stated that the State Board's proposal has a lot of merit.

Speaker Lockhart asked for a clarification on what the State School Board was asking the committee to do in light of Sen. Niederhauser's comments.

President Niederhauser indicated that with the proposed adjustments, the school grade distribution would be similar to last year's. He felt that once a new base year is established under the new standards, we can move forward, and over time move the bar back up to where it was before.

Speaker Lockhart expressed concern that the proposal maybe less transparent for parents, stakeholders, and the taxpayers.

Sen. Adams clarified that when the Legislature passed S.B. 209 last year, the Legislature knew that because of the new assessment system, the comparison of the two might cause some problems.

Rep. Hughes said that it would be important to identify best practices for our schools and that there needs to be a reasonable roll out for school grading.

Sen. Jones said that she had heard from Ms. Tami Pyfer who indicated that the Governor's new report card solves all of these problems.

Ms. Tami Pyfer, Governor's Office, indicated that the Utah State Board of Education had adopted the Governor's new school report card to replace the UCAS system. She indicated that the report card solves the transparency issue by reporting graduation rates, ACT scores, 3rd grade reading and math proficiency, etc. She also noted that the report card does not rely on a formula to come up with a letter grade.

Co-Chair Hillyard stated that based on the committee's comments, the EAC was not objecting to the State School Board's proposal.

Speaker Lockhart pointed out that there was some reservation about what the Board was doing. She asked that the record reflect that no motion had been taken on the issue.

8. STEM Accountability

Dr. Wilko introduced the Issue Brief, “STEM Action Center,” by providing some background information on the funding for and development of a comprehensive statewide Science, Technology, Engineering, and Math (STEM) Program.

Mr. Jeff Nelson, Chair, STEM Action Center Board, spoke positively about the progress the STEM Action Center is making in fulfilling its mission to meet STEM educational needs throughout the state. He indicated that the STEM Action Center is focused on becoming the research and development arm of public education when it comes to STEM topics, finding best practices, and keeping Utah competitive in the job market.

Dr. Tami Goetz, Executive Director, STEM Action Center, reported on the Grades K-6 and Grades 7-12 Math Digital Learning programs, which were funded with one-time monies in FY 2014 and FY 2015. She also highlighted a number of achievements in regards to learning licenses, expanding STEM into other areas within the educational system, and program monitoring.

Dr. Sarah Brasiel, Utah State University, Instructional Technology and Learning Sciences Department, discussed process evaluation, assessment, and implementation.

Mr. Matt Paterson, Curriculum Specialist, Weber School District, expressed his appreciation for the STEM Action Center and the support it provides to the Weber School District.

Rep. Briscoe asked about the cost of software licenses for the mathematics pilot program. Ms. Goetz clarified that the state is picking up the cost of the licenses for two years.

President Niederhauser was interested in having more information about student outcomes given the significant amount of money that was put into the program last year. He also wanted to know how one determines high quality deployment and if STEM funding addresses professional development and training in addition to purchasing products and technology. Dr. Goetz indicated that she would provide the committee with this information.

Speaker Lockhart asked if the STEM Action Center would be asking for additional funding in the next fiscal year. Dr. Goetz said that at this point in time she had not considered it. Mr. Nelson indicated that at this point in time, the Board does not intend to ask for additional money.

Mr. Ball asked that STEM provide some additional information on how the one-time funding in FY 2014 and FY 2015 is being spent. He was also interested in learning how STEM defines programs and operations. Ms. Goetz indicated that she would follow up on Mr. Ball’s requests as well.

Rep. Chavez-Houck said that she would like to speak further with Ms. Goetz about incorporating some of the work the STEM Center is doing with how families learn together.

9. Jail Report, Prison Projection, and Treatment Programs

Mr. Gary Syphus, Fiscal Analyst, LFA, referred to the Issue Brief, “Department of Corrections: Jail Report, Prison Population, and Programming,” which provides a brief overview of the main cost drivers of the department. outlines the key information needed in making budget decisions. The main cost drivers of the department are the prison and adult probation and parole populations and the related resources to manage those populations.

Mr. Mike Haddon, Deputy Director, Utah Department of Corrections, discussed the “Annual Jail Report.” He reported on the state daily incarceration rate calculation, jail contracting rate, contract jail population, jail contracting budget, and prison population and projections.

Based on the average state daily incarceration rate for FY 2016, the jail contracting amount for jails not providing treatment services is \$57.92 per bed day, and \$62.68 per bed day for jails providing treatment services.

Sen. Okerlund asked what the state was currently paying for contracted jail beds. Mr. Haddon responded that the state is currently paying \$47.85 per bed day.

There has been steady growth in the jail population. The jail population accounts for about 23 percent of the state’s prison population. From FY 2010 to FY 2015, there has been a 56.9 percent increase in the jail contracting budget. Finally, over the last 12 months the prison population has been flat. However, prison population projections may change pending a new justice reform package.

Mr. Craig Burr, Institutional Programming Division Director, DOC, discussed programming and treatment services at the Draper and Gunnison prisons that included: therapeutic communities for substance abuse, sex offender treatment, as well as post-secondary and high school education. Initial outcomes indicate that inmates who complete these programs are less likely to return to prison than offenders who never participate in the programs.

Mr. Haddon responded to Rep. Chavez-Houck’s questions about how the recovery and treatment services within the department differ from those provided by the DORA Program and the decline in graduation rates since 2009.

Pres. Niederhauser commented that one of our biggest challenges is finding employers who will hire former inmates who have been adequately trained. Increasing the number of job opportunities for these individuals might could play a role in reducing recidivism. Mr. Burr indicated that he could report on inmate job placement efforts as well.

Co-Chair Hillyard stated that these prison-related topics are very important especially in light of moving the proposed prison. He suggested that the committee members contact the chairs or staff to discuss this topic further.

10. Other Business/Adjourn

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

Co-Chair Hillyard adjourned the meeting at 4:39 p.m.