MINUTES OF THE
EXECUTIVE APPROPRIATIONS COMMITTEE
Tuesday, November 18, 2014 – 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. Luz Escamilla
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

Members Excused:
Sen. Patricia W. Jones
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 1:48 p.m. He announced that Sen. Davis, Sen. Jones, and Rep. Seelig were excused from the meeting. Sen. Davis arrived later in the meeting.

MOTION: Rep. Brown moved to approve the minutes of October 14, 2014. The motion passed unanimously with President Niederhauser, Sen. Adams, Sen. Davis, Sen. Mayne, Speaker Lockhart, and Rep. Hughes absent for the vote.

Co-Chair Hillyard moved to Agenda Item 4, CCJJ Justice Reinvestment Report, so that Sen. Adams and Sen. Stevenson could hear the presentation before leaving for another legislative commitment.

2. CCJJ Justice Reinvestment Report [Agenda Item 4]

Mr. Gary Syphus, Fiscal Analyst, LFA, provided some background information on the "CCJJ Justice Reinvestment Report" that addresses rising concerns about the growth in Utah's prison population, high recidivism rates, and the rising cost of incarceration and treatment.

Mr. Syphus explained that in February 2014, state leaders requested that the Pew Charitable Trusts conduct research and analysis of Utah's sentencing and correction system and consider the findings in context of a relocation of the Draper State Prison. Pew was asked to explore policy options that would hold offenders accountable, improve public safety, and contain corrections costs.

In response, the Pew Charitable Trusts sent a research team that worked closely with the Commission on Criminal and Juvenile Justice (CCJJ) and other state agencies to perform an in-depth review of Utah's criminal justice system.

Based off their findings, the CCJJ developed a comprehensive set of evidenced-based policy recommendations that was released on November 12, 2014. If adopted, these recommendations are projected to reduce prison growth and avert long-term corrections spending over the next 20 years.

Mr. David Walsh, Deputy Director, CCJJ, presented CCJJ's findings and recommendations as outlined in the "Justice Reinvestment Report Summary" and the "CCJJ Justice Reinvestment Report."

The report states that "chief among CCJJ's findings was recognition that Utah is regarded, in several ways, as a national leader in corrections, maintaining a relatively low imprisonment rate and focusing the majority of prison beds on serious and violent offenders." However, in the last decade, research found that:

- Utah's prison population has grown six times faster than the national average.
- A significant number of Utah's prison admissions are for nonviolent crimes.
- Offenders on probation and parole supervision are failing at higher rates than they did 10 years ago.
- Despite research demonstrating the diminishing public safety returns of longer prison sentences, prisoners are spending 18 percent longer in prison than they did 10 years ago.

Based on the analysis of state corrections and criminal justice data, CCJJ proposed 18 recommendations that will 1) Focus prison beds on serious and violent offenders, 2) Strengthen probations and parole supervision, 3) Improve and expand reentry and treatment services, 4) Support local corrections systems, and 5) Ensure oversight and accountability.

Mr. Walsh indicated that the prison population is expected to grow by 37 percent over the next 20 years. He pointed out that adding the cost of relocating the prison to the state's projected prison growth, could cost the state over $1 billion. Mr. Walsh indicated that CCJJ's comprehensive policy package will avert 98 percent of the anticipated growth in the prison population, avoid the need for 2,551 prison beds, and save taxpayers at least $562 million over the next two decades.

Mr. Walsh also mentioned that there are other policy areas that will require further analysis that include: aging prisoners and prisoners with mental health disorders, sex offender length of stay, and the release decision-making process.

Mr. Walsh concluded his remarks and responded to committee questions.

Co-Chair Hillyard asked about instances where inmates have become accustomed to prison or jail and how access to treatment services in those facilities differ.

Rep. Chavez-Houck inquired about possible linkages to the juvenile justice system, which would help remediate the growth in prison population.

Sen. Adams expressed his appreciation to the Pew Charitable Trust and CCJJ. He was impressed with the statistical data that the report brought forth. Sen. Adams commented on the economic and social costs of incarceration compared to treatment.

Sen. Mayne stated that individuals, especially women, who leave prison need to be supported “forever” on many different levels so that they can function in society and support themselves and their families.

Rep. Cosgrove felt that expanding treatment services for juveniles should be a top priority.

Rep. Ipson expressed an interest in expanding drug courts.

Sen. Knudson wanted to know what percentage of the prison growth is directly related to population growth. Mr. Walsh indicated that the growth in the prison population was not directly related to the growth in population and that there were other contributing factors.

Co-Chair Hillyard suggested that CCJJ determine which recommendations could be implemented by the Department of Corrections, changed by statute, or paid for internally.

3. Federal/Non-federal Grants [Agenda Item 2]

Mr. Evan Curtis, Governor’s Office of Management and Budget (GOMB), presented the “Federal/Non-Federal Grants Report” dated November 18, 2014. In regards to federal grants, there were two new grants and one reapplication of an existing grant requiring legislative action. The Governor’s Office approved two new grants, one revision, and one reapplication of an existing grant.

Mr. Curtis reported that there were no non-federal grants requiring legislative action or approval by the Governor’s Office.

MOTION: Rep. Brown 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 heading, “Grants Requiring EAC Review and Recommendation” and dated today, November 18, 2014. The motion passed unanimously with President Niederhauser, Sen. Adams, and Sen. Stevenson absent for the vote.

4. Necessarily Existent Small Schools Funding

Mr. Ben Leishman, Fiscal Analyst, LFA, presented the Issue Brief, “Minimum School Program: Necessarily Existent Small Schools.” The NESS program provides additional resources to schools in remote areas of the state with low student populations. In FY 2015, the Legislature appropriated a total of $27.8 million to the NESS program.

The Issue Brief addresses the following three questions posed by legislators about the program: 1) Given recent increases in the total appropriation for the NESS program, are NESS qualifying schools receiving all the appropriated funds? 2) What guarantees are in place to ensure that NESS qualifying schools actually receive NESS allocations from the school districts? 3) Why are some NESS qualifying schools receiving less funding in light of recent increases in the total appropriation of the program?

In response to these questions, Mr. Leishman referred to Appendix A – Qualifying NESS Schools and Funding Amounts, which details the distribution of program appropriations to NESS qualifying schools. The table shows that in three of the past four years, not all of the program appropriations have been distributed to qualifying schools in the year the funds were appropriated, leaving an unallocated balance in the program.

In addition, State Board of Education rule requires that NESS funds allocated to a school district be utilized at the qualifying school. This rule also prohibits a school district from supplanting other state or local funds allocated to a NESS school.

Finally, under program distribution formulas, it is possible for a NESS qualifying school to receive less funding even with increases in total program appropriations. Schools receive funding based on their enrollment in relation to statutory enrollment caps based on school type and their relative position with other like schools. As the enrollment in a school increases towards the cap, the amount of funding they receive will decrease.

Mr. Leishman summarized his comments pointing out that NESS qualifying schools are not receiving the full benefit of state funding in the year the appropriation occurs. Leaving unallocated balances in the program each year reduces the amount each qualifying school may receive.

Mr. Leishman suggested that the Legislature may want to consider the following recommendations:

1. Require the State Board of Education to regularly update the regression formula used to distribute program funding to NESS qualifying schools in order to reduce the amount of funding that remains unallocated each year.

2. Require the State Board of Education to implement monitoring and reporting procedures to ensure program funding is allocated to the NESS qualifying schools and that the school district does not supplant other funds allocated to the school.

Mr. Bruce Williams, Utah State Office of Education, responded to committee questions regarding the allocation of NESS funding, unallocated fund balances, adjusting the regression formula used to distribute program funding, accountability, reporting requirements, and implementation of the Analyst's recommendations.

Rep. Hughes asked what happens to unallocated funds. Mr. Leishman indicated that unallocated funding is held in the program and becomes a nonlapsing balance at the end of the fiscal year. Rep. Hughes asked what that unallocated amount was. Mr. Leishman stated that it should be close to FY 2015's balance. He explained that the balance in FY 2014 will be distributed in FY 2015.

Speaker Lockhart asked about the asterisk notation on Big Water High School for the list of schools receiving NESS program funding. Mr. Leishman said that he would find out about the notation.

Sen. Okerlund asked about program funding levels. He also asked if anything is being done to help schools that do not qualify for growth funding or NESS funds. Mr. Leishman stated that this topic was briefly discussed in the Public Education Appropriations Subcommittee last session. He indicated that under the formulas, the only way these schools would get additional funding would be through an increase in the WPU value.

Co-Chair Hillyard stated that the NESS program is an important program for students who attend schools in rural areas. The program gives them a chance to succeed when they move on and go to college.

Mr. Williams stated that the USOE will look at the reporting requirements to ensure that funding is getting to the schools, and the regression formula to ensure that nearly all, if not all, of the NESS funding will be allocated during the current year. He also pointed out that the USOE will be fiscally prudent to ensure that they do not over allocate the funding.

5. Fiscal Health Dashboard Preview and Debt Obligations Update

Mr. Ball introduced LFA's newest fiscal analyst, Ms. Clare Tobin Lence, who will help staff the following appropriations subcommittees: Executive Offices and Criminal Justice, and Business, Economic Development, and Labor.

Debt Obligations Update

Mr. Brian Wikle, Fiscal Analyst, LFA, discussed Utah's debt obligations in the Issue Brief, "Debt Service." Debt Service is made up of interest and principal due on the State's bonded indebtedness.

Mr. Wikle reported that the current outstanding General Obligation (G.O.) bond indebtedness, including buildings and highways, is approximately \$2.83 billion. As of November 2014, the constitutional debt, which caps total general obligation debt at 1.5 percent of the value of the state's taxable property, is \$4.24 billion, which gives the state \$1.29 billion of additional bonding capacity. However, under state statute, the statutory debt limit is slightly lower than the constitutional debt limit. Under statute, the State has \$1.17 billion of available bonding capacity.

Mr. Wikle also discussed debt ratios. Utah's debt per capita is \$977, down from a high of about \$1,200 per capita in FY 2012. In addition, Utah's debt as a percentage of personal income is currently 2.67 percent. As of September 23, 2014, Utah is one of 10 states that has a "Triple A" credit rating. Of those ten states, Utah has the second highest debt service ratio, 7.5 percent, which is higher than the median for all fifty states. Mr. Wikle indicated that Utah has just over \$470 million to service the debt in FY 2015.

Rep. Briscoe asked if it would be possible to extend the debt ratio trend line out a few years to show where the state's indebtedness is headed. Mr. Wikle indicated that LFA has been working on models that show what the trend line might look like if state's current debt service is paid down, but also what it might look like, if new debt is incurred by financing large projects such as the prison relocation.

Mr. Ball pointed out that Utah's debt service is not a new issue and has been of concern to LFA for a number of years. He noted that the state is making progress and is moving in the right direction, but it would be important to have a long term view of the future, given the many demands on the state's budget.

Fiscal Health Dashboard Preview

Ms. Clare Tobin Lence, Fiscal Analyst, LFA, addressed the committee. She explained that in accordance with House Bill 311, "Budgeting Amendments" (2014 General Session), the LFA has been developing an online fiscal health dashboard that provides a regularly-updated report on Utah's fiscal status.

Ms. Lence showed the committee a preliminary version of the dashboard. The dashboard provides at-a-glance information in four key categories: revenues, expenditures, offsets, and obligations. Ms. Lence demonstrated how to access the information using two examples from the obligations category, General Obligation Bond Debt and Revenue Bond Debt.

Ms. Lence asked for committee feedback on the design and content of the current dashboard. She also mentioned that some of the results from the "Fiscal Health Dashboard – Executive Appropriations Committee Survey Results," had already been incorporated into the dashboard. A final version of the dashboard will be presented in next month's EAC meeting.

Rep. Brown asked that revenue sources be displayed when referencing the state's bond obligations.

Pres. Niederhauser requested that the dashboard be kept as simple as possible.

Rep. Briscoe suggested creating a graphic that shows how various debt obligations compare with one another. Mr. Ball indicated that a summary tab could be added to show those comparisons.

Co-Chair Hillyard proposed that President Niederhauser, Vice Chair Wilson, Rep. Briscoe, and Sen. Davis work out some these details with staff.

6. Consensus Forecast on Growth in Public Education

Mr. Leishman, Fiscal Analyst, LFA, presented the Issue Brief, "Minimum School Program Growth & WPU Value Estimates." He discussed enrollment growth, enrollment growth cost estimate, and changes in the WPU Value.

Mr. Leishman stated that the Common Data Committee (CDC) projects that 630,104 students will enroll in Utah's public schools next fall, an increase of 7,951 students or 1.3 percent over the current enrollment year. While student enrollment growth continues to grow, overall growth is slowing, and fewer new students will enroll in Utah's schools next year.

Mr. Leishman also discussed the enrollment growth cost estimates for the 2015 General Session that included the Basic School Program, Related to Basic School Program, Voted & Board Local Levy Programs, and Basic Property Tax Levy Revenue Increase (Offset). He stated that the projected student enrollment for fall 2015 will result in an additional 8,380 WPUs. Preliminary cost estimates indicate that student enrollment growth may cost between $50 million and $55 million in FY 2016.

Rep. Cosgrove asked for a clarification on the cost of the additional WPUs and the cost of a one percent increase in the WPU Value.

Sen. Mayne asked if the disparity in determining WPUs for charter schools and school districts had been resolved. Mr. Leishman explained that the Legislature authorized charter schools to count WPUs differently through FY 2015, and that beginning in FY 2016, charter schools and school districts will use the same methodology.

Finally, in response to Rep. Cosgrove's question on the cost to change the WPU Value, Mr. Leishman pointed out that estimates indicate that it will cost approximately 25 million dollars for every one percent increase in the WPU value. This amount includes both WPU programs in the Basic School Program and certain programs in the Related to Basic Programs historically adjusted with the WPU Value.

7. Consensus Forecast on Growth in Medicaid

Mr. Russell Frandsen, Fiscal Analyst, LFA, presented the Issue Brief, "Medicaid Consensus Forecasting."

Mr. Frandsen called attention to the summary of forecasted costs for FY 2015 and FY 2016 in the table on page 1. For the combined Medicaid and Children's Health Insurance Programs, the consensus forecast team estimates surplus General Fund of $15.4 million one-time in FY 2015 and an ongoing cost of $2.7 million in FY 2016. Mr. Frandsen attributed the surplus to lower-than-forecasted enrollment growth associated with federal health care reform.

Mr. Frandsen indicated that in some years, the Legislature has opted to address Medicaid costs in the base budget, and may want to consider this option for FY 2015 and for FY 2016.

Mr. Frandsen identified some of the bigger cost drivers for FY 2016. They include the Accountable Care Organization (ACO) contracts, federal requirements for autism, forced provider inflation, and an unfavorable change in the federal match rate.

Mr. Ball clarified that the ongoing cost of $2.7 million includes a 2 percent provider increase for ACOs. He also noted that there was some additional one-time money on the table including $20.8 million in the Medicaid Restricted Account and $17 million in the Medicaid Growth Stabilization Account.

8. URS Report on Upcoming Rate Expectations

Mr. Brian Fay, Fiscal Analyst, LFA, stated that the URS rates are expected to be the same this year as last year with one small reduction in Tier II.

Mr. Dan Anderson, Executive Director, Utah Retirement Systems, provided some historical information on the Tier I and Tier II retirement systems. He discussed a 2-page handout on the FY 2016 contributions rates for both systems. For Fund 16 - State and School, the total contribution rate for the Tier I Defined Benefit System is 22.19 percent and the total contribution rate for the Tier II – Defined Benefit Hybrid System and the Tier II – DC Plan is 20.02 percent. Mr. Anderson anticipates that the 22.19 rate will remain in place for a number of years going forward, assuming that the market remains relatively stable.

Mr. Anderson noted that last year, with the Tier II system in place, the state realized a savings of $13.2 million in Fund 16. Annualizing these savings going forward, the state could realize a savings of $140 million to $150 million a year by 2020. Based on 2009 projections on what funded ratios and savings might look like under the Tier II system, Mr. Anderson indicated that the state is ahead of schedule. Currently, the Utah Retirement System is 83 percent funded.

Rep. Wilson asked how long it would take to fully fund the retirement system. Mr. Anderson estimated that the retirement system would be fully funded in approximately 23 years if assumptions do not change. The projections are based on a 7.5 assumed rate of return.

Rep. Dee inquired about the 23-year projection and the number of Tier I employees leaving the system. Mr. Anderson pointed out that the amortization period of 23-years is not tied to the number of employees leaving the system. However, a significant number of Tier I employees will pass through the system within the next two decades. Rep. Dee commented that the system and the Tier II legislation passed in 2010 seem to be working.

Co-Chair Hillyard asked about any pending litigation that may have resulted with the passage of the 2010 legislation. Mr. Anderson clarified that the reforms set forth in the legislation creating the Tier II Retirement System did not impact current employees, only new hires, and as a result, there is no pending litigation.

9. PEHP Report on Upcoming Rate Expectations

Co-Chair Hillyard recognized Rep. Tim Cosgrove for the great work he has done for the State of Utah. Today's meeting was his last EAC meeting.

Mr. Fay stated that the PEHP initial estimates show a Medical/Rx renewal rate increase of 4.9 percent and a Dental renewal rate of 0.0 percent. The impact on state agencies for state and higher education employees is estimated to between $18 million and $20 million, of which, between $10 million and $20 million will impact the General/Education Fund.

Mr. Chet Loftis, Director, PEHP, reported on the "State Risk Pool Update." The state risk pool is made up of approximately 76,000 members, which includes about 10,000 quasi-state agency members. The state network breakdown shows that the Advantage Plan Organization (APO) continues to grow (65 percent), followed by Summit (34 percent), and Preferred (1 percent).

In terms of state plan types, employee interest in the STAR Plan is growing to about 20 percent in 2014/2015 from 7 percent in 2011/2012.

Mr. Loftis commented that the recent medical trend for the state risk pool has been close to 0 percent which is much lower than previous projections. This has been driven by decreases in utilization. The Rx trend came in above projected trend due largely to the higher than expected trend on generics and low copays. Mr. Loftis also discussed the PEHP trend by service type.

As far as the state renewal rate for Medical/Rx, PEHP is recommending 4.9 percent. If medical and Rx trend come in as projected, target reserve levels will come in around the top of the reserve target range by the end of the 2015-2016 plan year. PEHP is also looking at a one-time draw down as a way of reducing the reserve.

PEHP did not recommend a rate increase for Dental renewal.

Mr. Loftis stated that PEHP will have to make a change in the Traditional Medical/Rx Plan as per the Affordable Care Act.

10. Other Business/Adjourn

Co-Chair Hillyard announced that two reports were available for committee review behind Tab 10: "Update on the Turnover Savings Factor Calculation" and "Tourism Marketing Performance Fund."

Mr. Ball identified $178 million in large funding requests that the Legislature may need to consider in the upcoming general session. Possible funding sources include a one-time revenue surplus (FY 2014 – FY 2015) ranging between $182 million and $312 million as well as estimated ongoing revenues ranging between $70 million and $200 million.

MOTION: Rep. Brown moved to adjourn. The motion passed unanimously with Sen. Adams, Sen. Escamilla, Sen. Stevenson, Speaker Lockhart, Rep. Chavez-Houck, and Rep. Cosgrove absent for the vote.

Co-Chair Hillyard adjourned the meeting at 3:51 p.m.