

MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE
October 17, 2006 at 1:00 p.m.
Room W135, House Building, State Capitol Complex

Members Present: Sen. Lyle Hillyard, Co-chair
Rep. Ron Bigelow, Co-chair
Sen. Gene Davis
Sen. Mike Dmitrich
Sen. Dan Eastman
Sen. Beverly Evans
Sen. Karen Hale
Sen. Peter Knudson
Sen. Ed Mayne
Pres. John Valentine
Rep. Ralph Becker
Rep. Ben Ferry
Rep. Patricia Jones
Rep. Brad King
Rep. Roz McGee
Rep. Stephen Urquhart
Sen. Curtis Bramble, Vice Chair
Rep. David Clark, Vice Chair

Members Excused: Speaker Greg Curtis
Rep. Jeff Alexander

Staff Present: John Massey, Legislative Fiscal Analyst
Greta Rodebush, Legislative Secretary

Others Present: Tenielle Young, Governor's Office of Planning & Budget
Juliette Tennert, LFA
Dinesh Patel, Chairman of the Board, USTAR
Ted McAleer, Executive Director, USTAR
Ned Weinshenker, Utah State University
Rep. Mike Morley
Ben Christenson, LRGC
Dee Larson, LRGC
Robert Newman, Executive Director, Utah Retirement Systems
Patti Harrington, Superintendent, USOE
Myron Cottam, Associate Superintendent, USOE
Nicole Paulson, USOE
Brett Moulding, USOE
Ray Timothy, Deputy Superintendent, USOE
Larry Shumway, USOE
John Broberg, Charter Schools Director, USOE
Clark Baron, Principal, Utah County Academy of Sciences
Steve Zsiray, Principal, InTech Collegiate High School
Rod Marrelli, Executive Director, Utah State Tax Commission

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Call to Order

Committee Co-Chairman Ron Bigelow called the meeting to order at 1:20 p.m. He noted that Speaker Greg Curtis and Rep. Jeff Alexander have asked to be excused and that Rep. David Clark's vote will be included in the total vote count as per rule.

2. Federal Funds Report

Tenielle Young, Governor's Office of Planning & Budget, presented the Federal Funds Report for the period September 1, 2006 through September 30, 2006. She briefly explained one new grant requiring legislative action with Administrative Services - Utah State Archives: Historic District Court Records Preservation with a federal annual award of \$76,100 and a state match of \$60,900 in-kind existing program expenses. In addition, Ms. Young presented one reapplication of an existing grant requiring legislative action along with one new grant and two reapplications for existing grants approved by the Governor's Office.

Rep. Ferry inquired as to when work would begin on the Department of Agriculture and Food's Surveillance Plan for Detecting Pathogenic Avian Influenza. Ms. Young indicated that she would get that information for Rep. Ferry.

3. Utah Science, Technology, and Research (USTAR) - Annual Report

Juliette Tennert, LFA, presented an overview of USTAR's legislative history and funding levels. SB 75 (USTAR Initiative), passed during the 2006 General Session, broadened the scope and funding of the USTAR project. SB 75 provides \$50 million one-time from the General Fund and \$111.1 million in bonding authority for two initial USTAR research buildings. Ongoing funding totals \$19.25 million: \$15 million for research teams and commercialization, \$4 million for a technology outreach program, and \$250,000 for administrative expenses.

Ted McAleer, Executive Director, USTAR and Dinesh Patel, Chairman of Governing Authority, provided an update on activities and expenditures since commencement of the program in July, 2006 and a description of future plans. To date, the nine-member USTAR Governing Authority has formed and selected an executive director, approved a framework for the technology outreach program, reviewed the universities' strategic team hiring plans, and initiated the request-for-proposal process with the Division of Facilities and Construction Management. The Governing Board and Executive Director are working to develop initiative objectives, meeting and reporting guidelines and performance measures, and plan to make a detailed report to the 2007 Legislature.

Rep. McGee noted that USU has the premier center in the country for testing of veterinary drugs and inquired if this is one of the areas being explored by the bio technology laboratories (Bio Innovations Research Institute at Utah State). Ned Weinschenker, USU, stated that currently

this is not one of the proposals that have come forward for USTAR; however, they are still in the early stages of various programs coming forward.

Dinesh Patel, Chairman, remarked that the Governing Authority is very dynamic and is impressed with the progress being made by the universities in putting research teams together. A comprehensive and detailed report on USTAR will be provided for the 2007 General Session.

4. Retirement and Independent Entities Subcommittee - Retirement Plan Options, Impact of Potential UHP COLA Increases, and Increasing the Retirement Service Factor for Pre-1975 Years of Service

Sen. Beverly Evans and Rep. Michael Morley, Retirement and Independent Entities Interim Committee Chairs, presented Committee findings in three areas:

Potential Increase in the cost of living allowance cap for State Public Safety retirees

- Retirees of the Public Safety System receive an annual cost-of-living adjustment (COLA) to their pension allowance based on changes in the Consumer Price Index (CPI) up to a maximum of 2.5%
- Annual CPI increases in excess of the maximum COLA are accumulated and used in years when the CPI is below the maximum
- The additional cost to the State to fund an increase in the maximum Public Safety Retirement COLA to 4% is about \$2.6 million annually; the cost to local Public Safety entities is about \$4.8 million annually.

It was pointed out that in 2005 the cost for a public safety employee retirement contribution was more than double that of a public or school employee. Since any adjustment in the Public Safety Retirement COLA will effect the contribution rates of the 120 entities participating in the Public Safety Retirement System, it would be important to gain the support of local cities and counties who would bear the greater portion of this COLA increase.

Sen Hillyard asked for a comparison in the total number of public safety and firefighters with state and public school employees. He inquired if cities and counties are responsible for funding retirement for local law enforcement, if the proposed COLA increase is realistic in meeting future needs, and if firefighters have a contributory and a noncontributory benefit.

Sen. Evans responded that there are 2,600 fire fighters, 11,400 public safety employees, and 132,000 (noncontributory) public employees. Cities and counties pay for retirement and COLA increases and there is the concern that retirement projections may be too low and that future adjustments to the COLA may be necessary. Dee Larson, Associate General Counsel, LRG, clarified that firefighters have contributory benefits only.

Rep. Urquhart asked clarifying questions about fluctuations in the Consumer Price Index and the effect on the COLA rates for public safety employees.

Sen. Bramble asked about the difference in the years of service requirement between public education and state employees and public safety and firefighters, and the effect that difference has on actuarial computations (exponential compounding of growth in the retirement account). He pointed out that the 10 year difference in retirement eligibility between public employee and public safety systems contributes to the substantial difference in employer contribution rates.

Rep. Morley clarified that the 20 year retirement benefit took into account that law enforcement and firefighting are higher risk occupations.

Sen Mayne asked if other states are offering similar benefits to public safety and firefighters.

Robert Newman, Executive Director, URS, said that the 20 year retirement benefit for Utah's public safety and fire fighters is mainstream with the majority of the public safety and fire fighter retirement systems across the country that offer a 20 year retirement benefit as well.

Rep. Morley reiterated that much of the burden of the proposed COLA increase will be born by local government and that it would be important to have their support. He also suggested that if it is the intent is to increase the compensation, it might be better to do that through a salary increase.

Pres. Valentine asked how practical would it be to offer an election at the beginning of a hire that would include the option of 30 years and a 4% COLA cap or 20 years and a 2.5% COLA cap. Mr. Newman suggested that adverse selection may come into play if an option was offered. He noted the reason for the 20 retirement benefit was to minimize the risks to the public safety employee and the public as well.

Sen. Hillyard noted that there are public safety officers who have retired after 20 years and then go to work with other law enforcement agencies. He questioned why we are hiring them back if there is a safety issue. Mr. Newman spoke only to the policy.

Sen Bramble asked how adverse selection would have an effect on an electible 20 year 2.5% COLA vs a 30 year 4% COLA? Mr. Newman indicated that he would have the actuaries look at how adverse selection plays out on those two options.

Potential increase in the retirement multiplier for years of service prior to 1975 for retirees of the Public Employee's Contributory Retirement System

- To calculate a retiree's pension allowance, Utah Retirement Systems uses a benefit formula that multiplies the product of an employee's years of service and final average salary by a retirement multiplier.
- A retirement multiplier of 1.25% is applied to years of service prior to July 1, 1975 for retirees of the Noncontributory System who retired prior to FY 1991 and all retirees of

the Contributory System. A 2% multiplier is applied to all other years of service. Therefore, all else equal, some retirees with years of service prior to FY1976 receive a lower retirement allowance.

- The additional cost to the State to increase the 1.25% multiplier to 2% is \$5.6 million annually; the cost to local public employers is about \$725,000 annually.
- In lieu of funding a change in the pre-1975 years of service multiplier through permanent contribution rate increases, the State and local entities could chose to appropriate a lump sum (actuarial present value of rate increases) to the Noncontributory and Contributory Retirement Systems. To increase the multiplier to 2%, the cost to the State is about \$81.5 million, and to the local entities, \$11.1 million.

Sen Hillyard wanted to know how many eligible employees participated in the early retirement program to be subject to the 2 percent multiplier. URS indicated that they did not have that information.

Approval of Minutes

MOTION: Sen. Hillyard moved to approve the minutes of September 19, 2006. The motion passed unanimously with Rep. Becker absent for the vote.

MOTION: Sen. Hillyard moved to approve one new federal assistance grant application and one re-application requiring legislative approval on the Federal Assistance Applications list, dated September 1, 2006 through September 30, 2006. The motion passed unanimously with Rep. Ralph Becker absent for the vote.

Defined Benefit versus Defined Contribution Retirement Plans for State Employees

- The major component of retirement benefits for State of Utah employees is a defined benefit pension plan, in which retirees receive a predetermined allowance base on length of service and final average salary. Most State employees are also eligible for a defined contribution plan in which the State provides a specific contribution (1.5 percent salary) into individual employee retirement accounts.
- Of the states that are considering or have adopted a defined contribution plan as their primary retirement plan, most have defined benefit plans with relatively low funded ratios and high contribution rates (not the case for Utah)
- In the short and medium term, terminating a defined benefit plan will result in increased costs until the plan is completely dissolved. Savings could be realized in the long term if cumulative employer contributions are less than they would have been under a defined benefit plan.
- If we were to start a nes program right now. We may be leaning toward a defined contribution because we can establish a rate and stay with the rate and not fund variations in the market. Currently the defined benefit is 75% funded through investment revenue

and only 25% comes from state funds. Over time the defined benefit could be completely funded from the investment pool. A shift to defined contribution

Sen. Evans noted that there are some states experiencing financial difficulties that have changed from the defined benefit plan to a defined contribution plan. In some cases, those states have switched back to defined benefits due to legal issues and financial challenges.

Sen. Hillyard commented that he would like to gradually move toward the defined contribution system. Rep. Morley commented that when the economy has been strong, many states have enhanced defined benefit programs and have not been able to cover these enhancements when the economy weakens. Utah has not done this which has given our retirement system stability.

Rep. Ferry asked if would it be possible to combine the two by synthesizing them, and incentivizing them. He asked if it is easier to adjust the defined contribution than it is the defined benefit.

Rep. Clark complimented Sen. Evans and Rep. Morley for the work they have done on this committee. He asked if Utah's defined benefit plan will ever be self-funding. Rep. Morley stated that it is trending that way and Juliette Tennert said that LFA could do some further research.

Sen. Evans concluded the presentation by stressing the importance of oversight on retirement issues.

Reconsideration of Minutes

Sen. Bramble asked for a reconsideration on the September 19, 2006 minutes. A number of Committee members listed as absent, were present at the Revenue and Taxation Interim Committee meeting that ran concurrently with Executive Appropriations Committee meeting or attending to legislative matters as they pertained to Special Session. Sen. Bramble recommended that those members be listed as excused. Sen. Bramble indicated that he was chairing the Revenue and Taxation Interim Committee, but was able to attend the Executive Appropriations Committee meeting to participate in the discussion on the Tax Commission Auditors and Collection Report. He requested that the minutes show that he was present at that meeting. He also noted that Rep. Jeff Alexander was present as well.

MOTION: Sen Bramble moved that the Executive Appropriations Committee reconsider the action on the September 19, 2006 minutes. The motion passed unanimously with Rep. Becker and Rep. Clark absent for the vote.

MOTION: Sen. Bramble moved that the September 19, 2006 minutes reflect that Sen. Bramble and Rep. Jeff Alexander were present and that Sen. Gene Davis, Sen. Mike Dmitrich, and Sen. Ed Mayne were excused, and with those changes, approve the amended minutes. The motion passed unanimously with Rep. Becker and Rep. Clark absent for the vote.

5. State Office of Education - Report on Education Reform - HB 181, 2006 G.S.

Patti Harrington, Superintendent, State Office of Education, introduced Myron Cottam, Associate Superintendent, Student Achievement, and Nicole Paulson, Elementary Specialist, Math.

HB 181 4-6 Mathematics Improvement Program

Myron Cottam explained that \$7.5 million in one-time funds was appropriated from the Uniform School Fund to support school district and charter school proposals to improve mathematics achievement test scores of students in grades 4-6. Qualifying proposals were to use professional development, incentive bonuses for teachers, or a combination of the two strategies to improve mathematics achievement test scores of students in grades four through six.

The USOE received 26 proposals which were evaluated by external reviewers. 13 proposals were selected to receive funding for implementation. The school districts that received funding are: Alpine, Carbon, Duchesne, Emery, Granite, Jordan, Juab, Nebo, Ogden, Salt Lake, San Juan, Washington, and a coalition including Box Elder, Davis, Ogden, The School for the Deaf and Blind, and Weber school districts.

All proposals have three year implementation plans. Of the thirteen proposals, one provides incentives only, one provides for professional development only, and the remaining proposals provide a combination of methods.

Mr. Cottam indicated that a meeting with all funded projects will be held in November 2006 to discuss annual reports and that a preliminary report will be due in January 2007.

Rep. Urquhart commented on the merits of funding these school district and charter school proposals as test cases in improving mathematics achievement test scores in grades 4-6. He requested that a written report outlining each of the funded proposals be prepared and presented to Executive Appropriations.

Rep. Ferry asked how the money was allocated to each school district. Nicole Paulson responded that the funding was presented as a competitive grant and that the proposals were reviewed and ranked. Rep. Ferry asked that the report reflect that evaluative process.

Basic Skills Education Program

Dr. Ray Timothy, Deputy Superintendent, USOE, and Larry Shumway, Director, Basic Skills Education Program, commented on the "Status Report on Basic Skills Education Program (UBSCT Remediation). Legislators appropriated \$7.5 million in one-time funds to support the Basic Skills Education Program to provide supplemental instruction for students who have not passed the Utah Basic Skills Competency Test.

Progress to date indicates that school districts and charter schools are meeting with students that have not passed the UBSCT and whose scores qualify them for participation in the program. They are providing students with information and a list of private instruction providers. Presently, the Utah State Board of Education has authorized four private providers. and one additional provider has recently applied for Board approval. USOE has established a tracking database that will provide information on the number of students participating from each school district or charter school, number of students registered by each provider, and the number of students passing the UBSCT test by provider, amount of stipend, and by UBSCT subtest.

Sen Hillyard asked about a UBSCT waiver for special circumstances. He requested that USOE take a look at what other states are doing to address this issue. Dr. Timothy indicated that work is being done in this area.

Rep. Jones asked about the lack of participation on the part of private providers. Mr. Shumway explained that because private providers are not paid for their services until a student passes the UBSCT, some of the providers have expressed difficulty in making it work as a business model. Mr. Shumway stated that an informational campaign to attract more providers is needed.

Rep. Uruqhart asked about the services being offered by schools and school districts to help students who have failed the UBSCT. Dr. Timothy stated that there are before and after school programs, tutoring, and a variety of intervention strategies. Dr. Timothy offered to provide the committee with a more complete list of these services.

6. State Board of Education - Report on Funding of Early College High Schools (High Tech Schools)

Handouts on each of the six Early College High Schools were distributed to committee members.

Dr. Ray Timothy presented the report. The Early College High Schools Program was established in 2002 to provide high tech curriculum for high school students in partnership with higher education. Six sites were approved for Early College High Schools and each received a planning grant of \$541,000 from the Bill and Melinda Gates Foundation. The first three Early College High Schools have been operational for three or four years and have received a state appropriation of \$650,000 each for capital outlay funding. The remaining three received a state appropriation of \$2.1 million one-time funding, approximately \$700,000 each, to support school start up costs.

Clark Baron, Principal, Utah County Academy of Sciences (UCAS) gave a brief summary of the program which is affiliated with UVSC and how the appropriated funds are being use. He also commented on the progress of the SUCCESS Academy with campuses at SUU and Dixie State College.

Steve Zsray, Principal, InTech Collegiate High School, gave a similar report. InTech is affiliated with USU.

Rep. Jones observed that only 42% of the enrolled students are female. She asked about efforts being made to increase that percentage. Mr. Baron responded that this is a good percentage and that nationally, for high tech math, science and engineering schools, the percentage is much lower. They will continue to recruit young ladies county wide. Mr. Zsiray stated that 45% of the students at InTech are female.

7. Tax Commission - Report on Tax Modernization System

Rod Marrelli, Executive Director, Utah State Tax Commission reported on the status of the Arches Project, Core Tax System Replacement. He was assisted by Steve Fletcher, Chief Information Officer. Mr. Marrelli indicated that the first phase of the project, the income tax component, is on time and under budget. Development and testing of this component will be completed in time for the income tax module to be set up and running by January. He reminded the Committee that the Department of Technology Services will be seeking \$5 million in FY 2008 to implement the second phase of the project to develop the sales tax module.

8. Health Department Report on Feasibility of a Medicaid Waiver

Co-Chairman Bigelow indicted that the Committee would not be discussing the Department of Health's Report on the Feasibility of a Medicaid Waiver. He encouraged the members to read the report and become familiar with its findings.

MOTION: Sen. Hillyard moved to adjourn. The motion passed unanimously.

The meeting adjourned at 3:22 pm.