

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE**  
**December 13, 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. Mike Dmitrich  
Sen. Dan Eastman  
Sen. Sheldon L. Killpack  
Sen. Karen Hale  
Sen. Peter Knudson  
Sen. Ed Mayne  
Pres. John Valentine  
Rep. Jeff Alexander  
Speaker Greg Curtis  
Rep. Ben Ferry  
Rep. Patricia Jones  
Rep. Brad King  
Rep. Roz McGee  
Rep. Stephen H. Urquhart  
Rep. David Clark, Vice Chair

Members Excused: Sen. Curtis Bramble, Vice Chair  
Sen. Gene Davis  
Rep. Ralph Becker

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

Others Present: Tenielle Young, Governor's Office of Planning & Budget  
Juliette Tennert, LFA  
Chuck Chapell, Wasatch Front Regional Council  
Mayor Darrell H. Smith, Salt Lake County Council of Governments  
Mayor Dennis Nordfelt, Wasatch Front Regional Council  
Donna J. Lister, Department of Nursing, SUU  
Maureen Keefe, College of Nursing, U of U  
John Sutherland, Cemaphore Systems  
Larry Lunt, Alcoholic Beverage Control  
Doug Murakami, Alcoholic Beverage Control  
Mark Shurtleff, Attorney General  
Ken Wallentine, Attorney General's Office  
Ray Hintze, Deputy Attorney General  
Dave Walsh, Commission on Criminal and Juvenile Justice  
Mike Peterson, Utah Education Network

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

## **1. Call to Order - Approval of Minutes**

Committee Co-Chairman Ron Bigelow called the meeting to order at 1:15 p.m.

**MOTION:** Sen. Hillyard moved to approve the minutes of November 14, 2006. The motion passed unanimously with Sen. Killpack, Sen. Hale, Rep. Alexander, and Rep. Ferry absent for the vote.

## **2. Federal Funds Report**

Tenielle Young, Governor's Office of Planning & Budget, presented the Federal Funds Report for the period November 1, 2006 through November 30, 2006. She indicated that there were no new grants requiring legislative action. There was one reapplication of an existing grant with the Department of Health requiring legislative action. Ms. Young also noted that one new grant and no reapplications for existing grants had been approved by the Governor's Office.

**MOTION:** Sen. Hillyard moved to approve one reapplication of an existing grant requiring legislative action on the Federal Assistance Applications list, dated November 1, 2006 through November 30, 2006. The motion passed unanimously with Sen. Hale and Rep. Ferry absent for the vote.

Co-Chairman Bigelow noted that Sen. Curtis Bramble, Sen. Gene Davis, and Rep. Ralph Becker asked to be excused from today's meeting.

## **3. Adoption of Revenue Estimates and Spending Limit**

Sen. Hillyard noted that the revenue estimates on the green sheet under Tab 3, represent a consensus between the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

**MOTION:** Sen. Hillyard moved to adopt the revenue estimates for FY 2007 revised and FY 2008 as indicated on the green sheet: "Executive Appropriations Committee, December 13, 2006." The motion passed unanimously with Sen. Hale absent for the vote.

**MOTION:** Sen. Hillyard moved to authorize the use of FY 2006 Surplus one time funds in FY 2007 or FY 2008 as indicated on the green sheet: "Executive Appropriations Committee, December 13, 2006." The motion passed unanimously with Sen. Hale absent for the vote.

In response to committee member questions, Rep. Bigelow explained that some adjustments could be made to the spending limit during the upcoming legislative session.

**MOTION:** Sen. Hillyard moved to adopt the appropriations limit estimates for FY 2007 and FY 2008 as indicated on the green sheet: "Executive Appropriations Committee, December 13, 2006." The motion passed unanimously with Sen. Hale absent for the vote.

#### 4. Approve Initial Subcommittee Allocations

Sen. Hillyard referred to the red sheet under Tab 4, which outlines the allocations to the Appropriations Subcommittees for FY 2008 with the following base budget amounts:

	<b>General/Education Funds</b>
Executive Offices & Criminal Justice	499,645,800
Capital Facilities & Administrative Services	183,976,200
Commerce & Workforce Services	80,037,700
Economic Development & Revenue	97,587,900
Health & Human Services - Dept. Of Health	337,937,700
Health & Human Services - Dept of Human Services	256,076,800
Higher Education - Medical Education	364,100
Higher Education	698,890,300
Higher Education - UEN	17,493,900
Natural Resources	53,801,300
Public Education	2,096,194,945
Transportation & Environment Quality	<u>106,378,100</u>
<b>Total Subcommittee Allocations</b>	<b>4,428,384,745</b>
Legislative(Exec Approps Committee)	<u>17,429,600</u>
<b>Total Base Budgets</b>	<b><u><u>4,445,814,345</u></u></b>

**MOTION:** Sen. Hillyard moved to allocate to Appropriations Subcommittees for FY 2008 the base budget amounts indicated on the red sheet under Tab 4.

Rep. King asked if the FY 2008 base budget allocation was the same as last years actual appropriations less one time monies. Rep. Bigelow confirmed that it was.

Pres. Valentine indicated that he would be voting in favor of the motion but wanted to state the Senate's position on base budgets. He indicated that the Senate had some concerns about the policy implications of continuing to uphold the current rule which requires that the base budget be adopted within ten days after the opening of session. This arrangement does not allow for discussion and adjustments to the base budget as the session progresses. Rep. Bigelow stated that the House will work with the Senate in any way possible.

A vote was taken on the motion. The motion passed unanimously with Sen. Hale absent for the vote.

## **5. Approve Base Budget Bills**

**MOTION:** Sen. Hillyard moved to authorize legislative staff to prepare and number “State Agency and Higher Education Base Budget Appropriations” and “Minimum School Program Base Budget Amendments” as Executive Appropriations Committee bills to be introduced on the first day of the 2007 General Session. Staff shall include in these bills the base budgets and changes to base budgets described on the yellow sheet (tab 5) titled “What’s in the base budget bills?” and dated Dec.12, 2006. In consultation with the Co-chairs of the Executive Appropriations Committee, the Legislative Fiscal Analyst may make any technical and non-substantive changes necessary.

Rep. King asked Sen. Hillyard to highlight the two items that were not in last year’s base budget. Sen. Hillyard noted: 1) \$5,363,1000 - “Below-the-line” Program Growth under Public Education Enrollment Growth; and 2) Balance of FY06 Transfers to Rainy Day Fund - \$45,409,300 (\$31,975,700 from the General Fund, One-time; \$13,433,600 from the Uniform School Fund, One-time).

A vote was taken on the motion. The motion passed unanimously with Sen. Hale absent for the vote.

## **6. Salt Lake County Council of Governments - Transportation Priority Process**

Handout: "Transportation Project Prioritization Process, Salt Lake County Quarter Cent Sales Tax Increase, November 27, 2006."

Mayor Darrell H. Smith, Draper City, and President, Salt Lake County Council of Governments (COG) introduced Mayor Dennis Nordfelt, West Valley City, and Chair, Wasatch Front Regional Council as well as Chuck Chapell, Executive Director, Wasatch Front Regional Council.

Mayor Nordfelt briefly addressed the committee and explained that COG's report was a response to the committee’s request for a more detailed description of the weighted criteria evaluation process for determining transportation project prioritization. Chuck Chapell commented on planning considerations that included the Transportation Improvement Program (TIP) formula and the Regional Transportation Plan (RTP). He stated that a credible technical process has been developed for ranking roads and transit projects that meets the technical requirements of the HB 4001. The process includes two additional criterion as requested by the committee: economic development and cost effectiveness.

Sen. Killpack asked if a safety factor as a cost per mile could be incorporated into the technical process. Mr. Chappell said that this could be done. Mayor Nordfelt concurred noting that safety ought to be considered when spending money for transportation infrastructure.

Sen. Killpack asked if the collected data for each criterion could be translated over to an equalizing scale that could be multiplied by the weighted criteria. Mr. Chappell said that was a very good recommendation and that they will do what they can to make the prioritization process more clear.

Pres. Valentine reserved the right to make a motion. He expressed appreciation to COG for providing a more detailed report. He highlighted two areas that COG might consider adding into the prioritization process: 1) scaling on the ranks; and 2) the safety factor.

**MOTION:** President Valentine moved to approve the COG's prioritization formula with the following two additions: 1) the rankings for each criteria be scaled to maintain the relative differences of value, and 2) the safety factor criteria be made relative to the cost of each project.

Speaker Curtis asked President Valentine if he would be willing to amend his motion to include a third item: that cost effectiveness be weighted equally with congestion relief at a proposed weight of "3". President Valentine restated the proposed amendment and indicated that he would include this in his original motion.

Rep. Bigelow asked Mayor Smith and Mayor Nordfelt to respond to the proposed amendment. Mayor Smith indicated that COG would go along with that amendment. Mayor Nordfelt noted that they had taken their lead from the sponsors of the legislation and others as well in coming up with the weights.

Sen. Mayne asked if Mayor Nordfelt had any objections to the proposed amendment. Mr. Nordfelt pointed out that legislation required that the prioritization process be approved by COG. To date the prioritization process and the weighted criteria system have been approved by COG and a public hearing has been held. If the weighted process is changed, then COG would have to review it again.

Sen. Mayne expressed his appreciation for the work done by the Salt Lake County Mayors and County Council in developing a list of critical needs.

Speaker Curtis asked Mayor Nordfelt to clarify his reservations to the proposed amendment to President Valentine's motion. Mr. Nordfelt indicated that Pres. Valentine's motion made changes to the application of the prioritization process and would not require COG's approval. Speaker Curtis' amendment changes the weighting of the criterion and this would require the approval of COG. A brief discussion ensued in an attempt to understand the language of the legislation.

Sen. Knudson asked if a formal motion had been made that included the proposed amendment. President Valentine indicated that he had accepted Speaker Curtis' proposed amendment to the original motion and that he had restated the motion to include all three items. Rep. Bigelow confirmed that the chair had accepted the motion.

A brief discussion ensued in an attempt to understand the language of the legislation. Rep. Ferry pointed out that H.B. 4001, Section 6. Section 59-12-1704 (3) states that the council of governments of a county of the first or second class shall submit the proposed written prioritization process to the Executive Appropriations Committee for approval prior to taking action on the proposed written prioritization process or any proposed amendment to the written prioritization process. Section 59-12-1705 (2) pertains to project selection using the written prioritization process and requires a public meeting to be conducted prior to finalizing priorities and funding levels of projects. Rep. Ferry stated that Speaker Curtis' proposed amendment was in order.

Rep. Jones asked in regards to the public hearing held by COG, if it was the public's intent to rank cost effectiveness at a "2"? Mr. Nordfelt indicated that the ranking was based on discussions with legislators held prior to those meetings.

Mayor Nordfelt indicated that in light of the clarifications on the legislation, he would withdraw any objections to the proposed amendment.

Sen. Eastman spoke in favor of Speaker Curtis' amendment noting that while congestion relief has been the primary reason for these transportation projects, cost effectiveness must also factor into the equation.

Rep. Bigelow informed the committee that if the motion passes, the transportation prioritization process with changes would go back to COG for approval. If COG accepts the change, then there would be no reason for COG to return to the legislature for further action. If COG does not approve the change, and they want to do further work of the process, then they would come back with an alternate proposal.

President Valentine restated the motion.

**MOTION:** Pres. Valentine moved to accept the COG's prioritization formula with the following three changes: 1) that rankings for each criterion be scaled to maintain the relative differences of the values; 2) that the safety factor criterion be made relative to the cost of each project; and 3) that the cost effectiveness be weighted equally with congestion relief at a proposed ranking of 3. The motion passed with Sen. Dmitrich, Sen. Hale, Sen. Mayne, and Rep. McGee voting in opposition. Rep. King was absent for the vote.

Speaker Curtis mentioned that if the Salt Lake County Council proceeds with the quarter cent sales tax increase for transportation projects, the Tax Commission will need 90 days notice if tax revenues are to be collected on April 1. Mayor Smith stated that COG will likely hold a special meeting in December. Similarly, Mayor Nordfelt indicated that the Salt Lake County Council will meet on Dec. 19th to consider the implementation of the sales tax. Speaker Curtis inquired if COG has the flexibility to select projects based on their own preferences. Mayor Smith stated while there is flexibility to make some minor changes, COG will follow the process.

Rep. Bigelow informed the committee that Item 13 (Revised Agenda): Utah Science Technology and Research (USTAR) - USU Building, will not be addressed today.

## **7. Report on Nursing Initiative and Engineering Initiative**

### *Nursing Initiative*

Donna J. Lister, Chair, Department of Nursing, Southern Utah University, and Chair, Nurses Academic Leadership Committee, stated that there is clear and direct evidence that the infusion of state funds (\$2 million) with Utah Hospital Association funds (\$1 million) has increased the number of new RN's in Utah State schools as well as graduate level RN's moving into faculty roles. In 2005-2006, there has been a 38% increase in enrollment. In addition, there will be an increase in the number of graduates beginning May, 2007 as students complete two year nursing programs. Ms. Leister requested that one-time monies be continued as an on-going appropriation in order to hire faculty and continue programs on a long term basis.

Maureen Keefe, Dean, College of Nursing, U of U, explained that funding at the University of Utah was used to enhance the undergraduate nursing program as well as the graduate program in order to prepare students for faculty positions.

Rep. Jones asked if the nursing shortage can be attributed to the shortage of faculty rather than the lack of applicants. She also inquired about the conditions of the facilities at the University of Utah. Ms. Keefe agreed that the shortage of faculty is a problem. She indicated that a request has been made through the Capital Facilities and Government Operations Appropriations Subcommittee to look at renovation and expansion of the College of Nursing building.

Rep. Jones asked if enhanced faculty preparation and building modifications would help to recruit potential faculty. Ms. Keefe stated that updated educational facilities and state-of-the-art laboratories help recruit faculty nationally with doctorates and masters degrees.

Sen. Knudson asked about the growth in the number of clinical nurses. Ms. Leister clarified that committee handouts include a graph that reflects graduate growth by year, faculty preparation at the University of Utah, as well as a chart that shows increases in annual RN enrollment growth in Utah State Schools. Overall RN enrollment growth 2005-2006 was 38%.

### *Engineering Initiative*

John Sutherland, VP Engineering, Cemaphore Systems and Chair, Technology Initiative Advisory Board (TIAB) commented on the handout: "Utah's Engineering Initiative 2006 Report to the Legislature." In 2001, the Utah Legislature passed SB 61 which established the Engineering and Computer Science Initiative. Mr. Sutherland stated that the Initiative has produced a 53% increase in engineering graduates between 2000 and 2006, and a 19% increase in computer science graduates. Overall, Utah's increase in engineering and computer science graduates is about twice the national average.

Mr. Sutherland also commented on the "Utah Engineering Workforce Data Survey Results". With 109 companies responding, there are 825 current open positions for engineers and another 804 expected openings in the next 12 months. With this great demand for engineers, Utah companies support continued funding for the Engineering Initiative.

Sen. Hillyard expressed his appreciation for the volunteer efforts of the members of the Technology Initiative Advisory Board.

### **8. SB 58 Eliminating Alcohol Sales to Youth**

Larry Lunt, Chairman, Alcoholic Beverage Control Commission (ABC) stated that he has worked closely with Art Brown, President, Mothers Against Drunk Driving (MADD), over the past year since the appropriation was made. Mr. Lunt informed the committee that the sale of alcohol and alcohol consumption is thriving in the state of Utah. He reviewed two statewide campaigns being used to eliminate alcohol sales to youth: 1) radio and television spots emphasizing the ill effects of alcohol on a child's developing brain; and 2) training sales clerks and law enforcement agencies on how to conduct compliance checks on youth attempting to purchase alcohol. He indicated that they are making a difference and the funds have been used well. Utah is one of 18 control states that uses part of the profits on alcohol sales to educate consumers on the dangers of alcohol. Mr. Lunt requested continued funding.

### **9. HB 170 Prosecution and Prevention of Child Pornography Offenses**

Handouts: "HB170 Prosecution and Prevention of Child Pornography Offenses" and "Utah Sexual Exploitation of Children Prevention Grant Program (SECP)"

Mark Shurtleff, Attorney General, introduced Ken Wallentine, Division Chief, Investigations Division. Mr. Wallentine recognized the achievements of individual staff members in the implementation of HB 170.

Mr. Wallentine stated that Utah continues to lead the nation in per capita arrests of child pornographers. These arrests have been made possible through Projects that have been funded by HB 170 - Prosecution and Prevention of Child Pornography Offenses. To date, 70 arrests have been made in Utah which is record breaking for all states. Technical assistance is also provided to other local law enforcement agencies particularly in the area of child pornography offenses. Three-fourths of child predators are found to be in possession of unlawful child pornography.

Mr. Wallentine stated that monies appropriated through HB 170 were awarded in grants to over 21 law enforcement agencies throughout the state. He outlined a number of the operations in place to combat child pornography.

Mr. Shurtleff spoke to a provision of HB 170 that established a one-time \$1 million grant program being administered by the Utah Commission on Criminal and Juvenile Justice (UCCJJ) for approved education programs to help prevent the sexual exploitation of children. He referenced a three page report: "Utah Sexual Exploitation of Children Prevention Grant Program (SECP)" that highlights five projects funded under the provision.

#### **10. Report from the Attorney General on Litigation Costs**

Mark Shurtleff, Attorney General, reported on funding for cases using outside counsel and expert witnesses in SFY2006 that included: David C., Legacy Highway, Rocky Mountain Nursing Home (Medicaid), RS2477, and Utah Public Employees Association (UPEA) HB 213. He noted that the committee had been provided a one page expense history for the "David C" Litigation.

Mr. Shurtleff noted that the Attorney General's office has retained Brent Hatch to assist in the defense of the Child Protection Registry being challenged by the Free Speech Coalition. Finally, he mentioned a \$10,000 cap on a retainer for outside counsel to represent the State on an appeal on Proposition 5 that created a constitutional amendment on Wildlife Resource Initiatives.

#### **11. Report on the Higher Education Course Management System**

Mike Peterson, Executive Director, Utah Education Network (UEN) reviewed the merits of a centralized course management learning system. Currently, UEN offers host services to Dixie State College, College of Eastern Utah, Snow College, the Utah College of Applied Technology, as well as course management support for 53,4000 students enrolled in the Utah Electronic High School.

Mr. Peterson stated that UEN is requesting \$1,110,000 for FY 2008 to host an enterprise level course management application for Utah State University (USU), Utah Valley State College (UVSC) and the University of Utah (U of U). He pointed out that last year, the Higher Education Appropriations Subcommittee ranked this project the highest priority after employee compensation because of improved student access to education, the efficient use of state resources, and the cost savings projected for USHE. The legislature, however, did not ultimately fund the request in FY 2007 because other UEN priority projects were already under way.

Rep. Ferry asked about a separate funding request that would shift UEN services from satellite to the internet. Mr. Peterson explained that UEN and Utah State University have determined that it is critical to move away from using satellite in the delivery of their distance learning courses. UEN is requesting \$2.1 million to provide one-time equipment in the classrooms. He clarified that there is no salvage value on the obsolete satellite equipment.

Rep. King spoke highly of the system as a great administrative tool, providing efficiency and management, that allows students to work in the same kind of cooperative environment they will experience in the real world. He encouraged committee members to take a look at the program first hand, and pointed out that vocational technical courses are offered as well.

## **12. Transforming Higher Education - Blue Ribbon Committee Report**

Sen. Hillyard commented on the work of the NCSL Blue Ribbon Commission on Higher Education. He recommended that committee members read the report: "Transforming Higher Education National Imperative - State Responsibility," which has received national attention. Sen. Hillyard highlighted a number of the Commission's findings. One common concern is that fewer students are choosing to attend college and obtain degrees. The cost of attending college has increased significantly and legislatures have allowed tuition to get too high. Higher Education must adapt itself to meet the needs of the 21st century student. Parents and public educators have the challenge to make education more attractive to students and better prepare students for college. Finally, it is important that institutions of higher learning become more competitive on the state level to avoid outsourcing to other countries.

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

Co-Chairman Bigelow adjourned the meeting at 3:12 pm.

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Co-Chair Sen. Lyle W. Hillyard

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Co-Chair Rep. Ron Bigelow