

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE**

**April 15, 2008 at 1:00 p.m.**

**Room C445, State Capitol, State Capitol Complex**

Members Present: Sen. Lyle W. Hillyard, Co-Chair  
Rep. Ron Bigelow, Co-Chair  
Sen. Peter C. Knudson, Vice Chair  
Rep. Rebecca D. Lockhart, Vice Chair  
Sen. Curtis S. Bramble  
Rep. David Clark  
Rep. Greg J. Curtis, Speaker  
Sen. Gene Davis  
Rep. Brad Dee  
Sen. Mike Dmitrich  
Sen. Dan R. Eastman  
Sen. Brent H. Goodfellow  
Sen. Patricia W. Jones  
Sen. Sheldon L. Killpack  
Rep. Brad King  
Rep. Gordon E. Snow  
Sen. John L. Valentine, President

Members Excused: Rep. David Litvak  
Rep. Carol Spackman Moss  
Rep. Phil Riesen

Staff Present: Jonathan Ball, Director, LFA  
Steven Allred, Deputy Director, LFA  
Greta Rodebush, Legislative Secretary

Speakers Present: Tenielle Young, Governor's Office of Planning and Budget  
Steven Allred, LFA  
Todd Hauber, Utah State Office of Education  
Roger Lewis, Department of Natural Resources, Division of Forestry  
Reg Garff, Commission on Criminal and Juvenile Justice  
Chad Christensen, Department of Agriculture and Food  
Jerry Olds, State Engineer  
David Ure, Former Legislator  
LaDel Laub, Escalante Valley Water Users Association  
Lee Bracken, Mayor, Enterprise City  
David H. Hart, Capitol Preservation Board  
Spencer Pratt, LFA  
John Sutherland, Technology Initiative Advisory Board  
Susan Mooney-Johnson, Technology Initiative Advisory Board  
David Riemer, ATK/UP  
Laurie Bott, IM Flash Technologies, LLC  
Richard Anderson, Hewlett Packard, Retired  
Gary Wixon, Utah State Board of Regents  
Maureen Keefe, College of Nursing, University of Utah  
Dave Gessel, Utah Hospital Association  
Jonathan Ball, LFA

**Note:** A list of visitors, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

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

Committee Co-Chair Bigelow called the meeting to order at 1:08 p.m.

**MOTION:** Co-Chair Hillyard moved to approve the minutes of February 27, 2008. The motion passed unanimously with Sen. Bramble, Sen. Eastman, Sen. Davis, Sen. Jones, and Rep. Lockhart absent for the vote.

**2. Federal Funds Report**

Tenielle Young, Governor's Office of Planning and Budget, presented the Federal Funds Report for the period December 1, 2007 through March 31, 2008. There were six new grants and nine reapplications of existing grants requiring legislative action. Ms. Young also noted that eleven new grants and two reapplications of existing grants had been approved by the Governor's Office.

Co-Chair Bigelow asked why Utah State Board of Education, Utah Charter School Program Start Up and Implementation Grant Program, was considered a new grant in light of the fact that it has been before the committee previously. Todd Hauber, Associate Superintendent for Business Services, Utah State Office of Education, responded that this is the same grant that was in place three years ago, but it is in a new three year cycle.

Co-Chair Bigelow inquired about the local match for Utah Department of Natural Resources, Forest Legacy-Chalk Creek South Fork #2. The purpose of the grant is to identify and protect private forest lands threatened by conversion to non forest uses. Roger Lewis, Division of Forestry, stated that the local match is made up of land owner donations.

In regards to the reapplications of existing grants, Co-Chair Bigelow asked about the accountability-based sanctions for juveniles for the Commission on Criminal and Juvenile Justice, Juvenile Accountability Incentive Block Grant Program. Reg Garff, Juvenile Justice Specialist/CCJJ, stated that the accountability-based sanctions pay for a number of different programs, primarily for placements of intermediate and high grade juvenile offenders into group homes and therapy.

Co-Chair Bigelow asked about the Agriculture and Food, Specialty Crop Block Grant Program. Chad Christensen, Director of Marketing, Department of Agriculture and Food, explained that specialty crops are fruits, vegetables, and nuts. In the 2002 Farm Bill, the US Secretary of Agriculture was authorized to provide \$7.2 billion to enhance the competitiveness of specialty crops in the United States. Utah was granted a federal annual award of \$103,135.

President Valentine inquired about the government's interest in the marketing of sheep meat in the western United States, referencing the Department of Agriculture, Preliminary Analysis of the Market for Sheep Meat in the Western United States Grant Program. Mr. Christensen explained that there is a need to develop local sheep markets in light of the fact that Mexican markets are no longer lucrative for Utah sheep raisers. Mr. Christensen stated that the Utah Wool Growers Association, the Utah Sheep Marketing Board, and the Utah Department of Agriculture will provide local and state matches.

**MOTION:** Co-Chair Hillyard moved to approve six new grants and nine reapplications of existing grants requiring legislative action listed in the Federal Funds Report for the period December 1, 2007 through March 31, 2008. The motion passed unanimously with Sen. Davis absent for the vote.

**3. State Engineer Report on Beryl/Enterprise (H.B. 2 Item 132)**

Steve Allred, LFA introduced Jerry Olds, State Engineer, who presented the "Briefing Paper for the Utah Legislature, Executive Appropriations Committee, Regarding Ground Water Management Planning in Beryl-Enterprise Utah, April 7, 2008." Mr. Olds was assisted by David Ure, former Representative and member of the Water Issues Task Force.

The Beryl-Enterprise groundwater system is the first area of the state where a new management plan is being developed under legislation enacted in 2006, H.B. 228 - Groundwater Management Plan. In 2005, a legislative Water Issues Task Force was created to study and recommend legislation to deal with the issue of well water mining, over appropriated water usage, water quality, and other water related issues. H.B. 228 was passed in the 2006 General Session. The legislation set forth policy that allows Utah to manage its groundwater resources on a sustainable safe yield basis and established the guidelines for the State Engineer to adopt groundwater management plans.

Mr. Olds stated that the long-term average annual recharge to the Beryl-Enterprise area is estimated to be 34,000 acre-feet per year. Withdrawals for the period 1995-2004 averaged about 85,000 acre-feet per year. As a result, groundwater levels are declining 1-2 feet a year creating subsidence and earth fissures. He pointed out that in order to bring the water basin back into balance, individuals and families who hold water rights in this area will be impacted.

David Ure commented on water users' concerns in the Beryl-Enterprise area. He stated that H.B. 228 is sound legislation and that it is important to have a consistent water policy that protects water reserves for the future. He was confident that these water issues could be worked out, but it would take some time.

Mr. Olds briefly resumed his presentation with details on the groundwater management plan work activities in the Beryl-Enterprise area. Three public meetings have been held to provide data and information and solicit comment from the water-user community. He remarked that public comment has been rather confrontational; however, progress is being made. The Escalante Water Users Association (EWUA) has proposed a voluntary arrangement that includes protections, creation of special water districts, phased implementation schedules, and other recommendations.

The State Engineer proposed a draft plan that would reduce total water depletion by 10% over the duration of two 20 year periods, and 45% after 90 years. The three-phased plan allows for periodic adjustments based on outcomes.

Co-Chair Bigelow invited committee questions.

Rep. King stated that he has served on the Water Issues Task Force and the Water Development Commission and observed that there is a greater willingness on the part of the water users and the community to allow the water cutbacks and see what the outcomes produce.

Rep. Clark asked Mr. Olds to comment on water property rights. Mr. Olds stated that water in the state of Utah is owned by the public. The Division of Water Rights is the regulatory agency that grants rights to people to use the water under certain terms and conditions.

Rep. Clark asked about the earth fissures in the Beryl-Enterprise area. Mr. Olds explained that these fissures became exposed following periods of significant flooding in the area. He further stated that the National Geological Survey has concluded that these fissures are a result of water mining in the basin.

Rep. Clark informed the committee that the water users in this area have taken their role very seriously and have volunteered to surrender 20% of their water rights. This represents a significant financial contribution from these people. Rep. Clark noted that this offer has been rejected by the State Engineer.

President Valentine asked the State Engineer to explain the cumulative acre feet reduction data in Table 1-Proposed Draft Plan Implementation Schedule.

Speaker Curtis inquired about a groundwater management plan for Salt Lake County. Mr. Olds responded that Salt Lake County is the most over appropriated groundwater basin in Utah. The estimated safe annual yield for Salt Lake Valley is 165,000 acre feet/year. Paper water rights are between 400,000 to 650,000 acre feet/year of potential withdrawals in the basin. Currently 150,000 acre feet/year are being drawn down. The majority of this water is being used by public water suppliers, and 50% is used for outside watering. Mr. Olds stated that there are no state laws that regulate the use of water for landscaping. Local districts do however, implement conservation measures.

Rep. Clark asked Mr. Olds to clarify who owns the state's water. Mr. Olds reiterated that the State of Utah grants a right to use the water. Rep. Clark expressed concern that water users have indebted themselves with the understanding that this was a property right.

Sen. Jones asked about water conservation. Mr. Olds emphasized that Utah has a limited water supply and that an increasing number of local water districts are developing stricter water conservation programs.

Co-Chair Bigelow invited public comment.

LaDel Laub, Administrator, Escalante Valley Water Users Association, expressed concern over the interpretation of H.B. 228, and questioned whether or not the State Engineer was using the flexibility granted to him in this legislation. He informed the committee that the Association has come up with some plans that will help the State Engineer administer this program. He explained that the water users in the Beryl-Enterprise are taking a proactive stance on these issues and are willing to work out a plan they can live with.

Lee Bracken, Mayor, Enterprise City, stated that he is going to prepare a response to the State Engineer's report that will include the economic impact and consequences on the loss of municipal water to the city. He felt that it would be important to continue to work with the State Engineer and the Escalante Water Users Association to come with a reasonable solution to these groundwater issues.

#### **4. Capitol Preservation Board Report on E/W Remodel**

Steve Allred, LFA, explained that the Capitol Hill construction schedule calls for remodeling portions of the House and Senate Buildings which served temporary purposes while the Capitol Building was under renovation. During the 2008 General Session, the Legislature appropriated \$5,500,000 to the Capitol Preservation Board (CPB) to augment \$3,500,000 already budgeted for the remodel.

David Hart, Executive Director, Capitol Preservation Board, briefed the committee on the construction schedule, estimated costs, and design elements of the remodel. In order to meet the November 17, 2008 deadline, both East and West Buildings will be worked on simultaneously.

Rep. Dee suggested that the excess furniture for legislative offices housed in the State Capitol be used to furnish some of the new offices in the East/West Buildings. Mr. Hart stated that he will take this into consideration as plans are still being developed.

Mr. Hart explained that the West Building remodel will include one new large committee room (former house chamber), 49 new offices for the House, remodeled space for Legislative Research and General Counsel (LRGC) and the Office of the Legislative Auditor General (OLAG), and an intern training room. The East Building will have three new committee rooms, 15 new offices for the Senate, 15 new parking stalls (30 total), an expanded conference room, and expanded space for new offices.

Co-Chair Bigelow asked how the remodel will affect existing office space for staff in the West Building. Mr. Hart stated that all LRGC offices will now be located on the second floor, and OLAG's offices on the third floor will be expanded to occupy the space formerly used by LRGC.

Co-Chair Bigelow asked about the original construction costs for the East and West Buildings. Mr. Hart replied that the construction cost of the two buildings was \$36.6 million, with an additional \$8 million for a parking structure. Adding soft costs to this figure, the total expenditure was \$49 million. Co-Chair Bigelow asked what the remodeled costs were going to be. Mr. Hart stated \$9 million.

#### **5. Progress of Engineering and Nursing Initiatives**

Spencer Pratt, LFA, introduced the Engineering and Nursing Initiatives. The goal of the Engineering Initiative was to double the number of graduates in engineering, computer science, and related technologies by 2006 and to triple the number by 2009. The Technology Initiative Advisory Board was created to assist the Board of Regents in the administration and allocation of the technology appropriations. To date, the Legislature has appropriated \$39.2 million (\$7.2 million one-time) for the Engineering Initiative. Mr. Pratt called attention to the table showing the FY 2002-FY 2008 break out of state appropriations and USHE matching funds by institution. Also available was a table showing the increase in the number of degrees since the inception of the Initiative in 2001.

The purpose of the Nursing Initiative is to address the nursing shortage by expanding the capacity to train more students to become nurses. A table was provided that shows the institutions that have received appropriations over the past four years. The total amount appropriated since FY 2005 is \$9,250,000 (\$1,050,000 one-time). Enrollments in nursing programs have increased approximately 50 percent since 2004. A table was available showing the number and types of degrees awarded over the past six years.

## **Engineering Initiative**

John Sutherland, Chairman, Technology Initiative Advisory Board (TIAB) presented the report on the Engineering Initiative. He recognized a number of individuals who expressed industry's need for more engineers and computer science graduates in Utah. They included: Ed Ekstrom, Managing Director, vSpring Capital; Richard Anderson, Hewlett-Packard, retired; Bruce Hale, Roberts & Schaeffer Company; Dave Riemer, ATK/UP; Paul Hirst, CRS Consulting Engineers; Pepper Martin, IBM, retired; Randy Sylvester, L-3 Communications; Bret Webster, Northrup Grumman Corporation; Laurie Bott, IMFlash Technologies; and Susan Mooney-Johnson, Futura Industries.

Mr. Sutherland explained that the Technology Initiative Advisory Board annually evaluates the engineering departments within the institutions to ensure that funds are invested wisely and provide the greatest return to the state. He also commented that the number of graduates has increased by about 38 percent since 2001. There has been a slight decline in the numbers in recent years which he attributes to a healthy economy that draws students into the marketplace, and out-of-state tuition policies that have affected Utah State University in particular. Overall, Utah's increase in engineering and computer science graduates is about twice the national average.

David Riemer, ATK Watch Systems, Lauri Bott, IM Flash Technologies, LLC, and Richard Anderson, Hewlett-Packard, retired, spoke on behalf of the Engineering Initiative and the positive impact graduate and research engineers have on helping companies grow.

Sen Bramble commented that the Engineering Initiative complements the USTAR program in that it provides the human resources for programs that are focused on growing businesses. He also asked Mr. Sutherland to comment on the sunset of the TIAB concluding its requests for additional funding.

Mr. Sutherland explained that the universities are having a difficult time providing matching funds, and FY 2008 would likely be the last year for new appropriations requests under the current structure.

Sen. Bramble remarked that it would be important to continue a dialogue with the university presidents on this matter.

Sen. Davis asked about the decline of graduates. Mr. Sutherland explained that USU has been impacted by changes in the out-of-state tuition policies that no longer allow reduced tuition, and that BYU-Idaho is attracting more students now that it is a four-year university. Enrollment numbers at USU are starting to turn around.

Speaker Curtis observed that the TIAB has played an important role in holding the institutions accountable. He asked Mr. Sutherland if he would be willing to meet with him to further discuss the current structure and policies of the Engineering and Computer Science Initiative.

Sen Hillyard also expressed his support for the TIAB.

Sen. Bramble stated that he would like to be included in the meeting with Speaker Curtis and Mr. Sutherland. Engaging in this dialogue would be relevant as Sen. Bramble chairs the newly formed Higher Education Governance Task Force.

Sen. Jones asked about recruitment and the quality of graduates. Mr. Sutherland stated that outreach plays an important part in getting more students into these programs. He noted that the quality of graduates is not necessarily diluted by graduating more students. He stated that based on information from the University of Utah admissions office, the average quality of incoming freshmen has gone up.

Ms. Mooney-Johnson also responded and suggested that this would be a good time to recruit out-of-state students who are being denied entrance into California schools due to budget cuts.

Mr. Sutherland concluded his remarks by mentioning that in addition to the institutions' commitment to provide funding matches, a number of private donations for buildings have come in, all of which can be completely accounted for.

### **Nursing Initiative**

Gary Wixom, Assistant Commissioner, Utah System of Higher Education, stated that the demand for nurses continues to increase. The state of Utah has 16,000 nurses and over the next six years, this need will increase by 50%.

Maureen Keefe, Dean, College of Nursing, University of Utah, presented the progress report on the Nursing Initiative. The Initiative is made up of seven state-supported nursing programs preparing registered nurses for the workforce. Funding for the Nursing Initiative began in 2004 General Session. To date, the total amount appropriated since FY 2005 is \$9,250,000. Ms. Keefe also explained that the Utah Hospital Association has matched this funding with \$1-\$1.5 million a year for the last four years.

Dave Gessel, Utah Hospital Association, talked about its role in this partnership. There has been a marked increase in the number of graduates as a result of the Nursing Initiative. He did mention that the lack of faculty has resulted in many students being turned away from nursing programs. Mr. Gessel added that hospitals continue to offer clinical training time worth millions of dollars to student nurses in preparing them to work in hospitals.

Ms. Keefe also shared findings from the American Association of Colleges of Nursing 2007-2008 annual survey. Nationwide, qualified applicants are being turned away due to an insufficient amount of faculty, clinical sites, classroom space, and budget constraints. This situation holds true for Utah as well. Ms. Keefe emphasized the need to recruit and retain more faculty.

Rep. Goodfellow mentioned that some hospitals are offering scholarships with the stipulation that upon graduation, students agree to work in local area hospitals for two years. Ms. Keefe stated that 98% of the baccalaureate graduates stay and work in Utah hospitals.

Sen. Knudson emphasized that legislators and educators have an important role to play in helping turn this situation around in meeting these needs in both the engineering and nursing professions.

Co-Chair Bigelow stated that Jonathan Ball, Director, LFA would introduce the next two agenda items. Dr. Andrea Wilko, LFA, and Dr. Thomas Young, LFA, would be available for questions.

**6. Rainy Day Fund Balances/Statutory Changes**

Jonathan Ball, LFA, presented the Rainy Day Funds update. He informed the committee that the combined rainy day fund balances will surpass \$414 million by the end of the fiscal year, which is about 7% of total FY 2008 appropriation from the Education and General Funds. He pointed out that this includes \$60 million appropriated to the Rainy Day Fund from the base budget bill.

Mr. Ball highlighted 2008 General Session changes. House Bill 49, 1st Substitute simplifies the calculation of "revenue surplus" and creates new definitions of revenue surplus and budget deficits. The statute further requires the Executive Appropriations Committee to adopt an official revenue estimate, adjusted for legislative changes (one time revenue sources and bills that passed) during the session.

In addition, House Bill 49, 1st Substitute, requires 25% of a revenue surplus to be deposited into a respective budget reserve account up to the maximum level (6% GF/7% EF) before any contingent appropriations, year-end set-asides, and other year-end transfers required by law are used.

**7. Adoption of Final Revenue for 2008 General Session (UCA 63-36-2.5-2.6)**

Jonathan Ball, Director, LFA, presented the final revenue estimates for the 2008 General Session, April 2008. Adjusted for FY 2009 legislative changes, the combined General Fund/Education Fund revenue estimate is \$5,321,997,500. This represents a 0.16% increase over the adopted February 2008 revenue estimate.

Mr. Ball clarified that the adoption of the final revenue estimates does not change the consensus revenue estimates approved during the Session but factors in adjustments for one time revenue sources and bills passed during the General Session.

Co-Chair Bigelow asked if there was anything unusual in the adjusted amounts to the consensus revenue estimates. Mr. Ball said that the differences this year are minor compared to those in past years.

**MOTION:** Co-Chair Hillyard moved to adopt the final revenue estimates for the 2008 General Session as indicated on the sheet titled "Final Estimated Revenue - 2008 General Session April 2008 and dated today, April 15, 2008." The motion passed unanimously with Sen. Bramble, Sen. Killpack, Speaker Curtis, and Rep. King absent for the vote.

**8. Assignment of Interim Studies/In-depth Budget Reviews (JR 3-2-502 and UCA 63- 38-14)**

Jonathan Ball, Director, LFA, reviewed the list of recommendations for Interim Appropriations Studies. They are as follows:

**1. Legislative Fiscal Analyst In-Depth Budget Review (JR 3-2-5002)**

Recodification of the Budgetary Procedures Act (*Master Study Resolution*, S.J.R. 11, 2008 GS)

**2. EAC Interim Study Prioritization:**

- a. EAC Subcommittee Structure (EAC Chairs)
- b. Minimum School Program Appropriations Bills - Calculating Fiscal Notes and Electronically Linking Approved Appropriations to Public Education Bill Drafts

(EAC Chairs)

- c. Zero-Based Budgeting (*Master Study Resolution*, S.J.R. 11, 2008 GS)
- d. Dynamic Analysis of Fiscal Notes (*Master Study Resolution*, S.J.R. 11, 2008 GS)

**3. Study Items Referred to Appropriations Subcommittees:**

- a. Capital Facilities Prioritization (*Master Study Resolution*, S.J.R. 11, 2008 GS) - refer to Economic Development and Revenue Appropriations Subcommittee
- b. Grant Proposal Hearing Process (*Master Study Resolution*, S.J.R. 11, 2008 GS) - refer to Economic Development and Revenue Appropriations Subcommittee
- c. Weighted Pupil Unit Funding (*Master Study Resolution*, S.J.R. 11, 2008 GS)- refer to Public Education Appropriations Subcommittee

**4. Governor's Office of Planning and Budget In-Depth Review (UCA 63-38-14):**

Comprehensive Approach to Turnover Savings for Inclusion in Governor's Budget Recommendations

**MOTION:** Co-Chair Hillyard moved to approve items 1 and 2 a through d for study by the Executive Appropriations Committee during the 2008 Interim; to refer items 3 a through c to Appropriations Subcommittees, as noted, with reports due back to Executive Appropriations Committee at the end of the interim; and to recommend that the Legislative Management Committee request item number 4 of the Governor.

Co-Chair Bigelow called for discussion to the motion.

Sen. Goodfellow asked about Item #3 a. - Capital Facilities Prioritization. Mr. Ball stated that these capital facilities requests were to the Department of Community and Culture and are funded for non-state government facilities.

Rep. Snow requested that the Governor's Office of Planning and Budget report back to the Executive Appropriations Committee study results for Item #4: Comprehensive Approach to Turnover Savings for Inclusion in Governor's Budget Recommendations.

Co-Chair Hillyard accepted this recommendation as a friendly amendment and included it as part of his motion.

Sen. Jones asked for an explanation of dynamic economic analysis in reference to Item #2d - Dynamic Analysis of Fiscal Notes. Sen Hillyard responded that this study will examine the feasibility of factoring in different variables that influence economic outcomes. Sen. Bramble pointed out that the current fiscal note process only takes into account costs in tax revenue. A "dynamic economic analysis" would include economic benefits as well.

Sen. Goodfellow suggested using the words "in addition to," instead of "to study replacing," in Item #2 d - Fiscal Notes - to study replacing the current fiscal note process with a dynamic economic analysis. Co-Chair Bigelow stated that there will be a lot of discussion on this topic before anything is changed.

Co-Chair Bigelow called for a vote on the motion.

The motion passed unanimously with Sen. Killpack, Sen. Dmitrich, Speaker Curtis, and Rep. Brad King absent for the vote.

**9. Other Business**

Co-Chair Bigelow entertained a motion to adjourn.

**MOTION:** Co-Chair Hillyard moved to adjourn. The motion passed unanimously with Sen. Killpack, Sen. Dmitrich, Speaker Curtis, and Rep. Brad King absent for the vote.

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