

MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE

August 19, 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
Sen. Gene Davis
Rep. Brad Dee
Rep. Dan R. Eastman
Sen. Brent H. Goodfellow
Sen. Patricia W. Jones
Sen. Sheldon L. Killpack
Rep. Brad King
Rep. David Litvack
Rep. Carol Spackman Moss
Rep. Phil Riesen
Rep. Gordon E. Snow
Sen. John L. Valentine, President

Members Excused: Rep. Greg J. Curtis, Speaker
Sen. Mike Dmitrich

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
George Delavan, Department of Health
Ivan Djambov, LFA
Rich Amon, LFA
Larry Shumway, Utah State Office of Education
Dr. Andrea Wilko, LFA
Dr. Thomas Young, 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.

1. Call to Order - Approval of Minutes

Committee Co-chair Hillyard called the meeting to order at 1:17 p.m. Jonathan Ball, Director, LFA, noted some minor corrections to the June 17, 2008 minutes previously mailed out to committee members. A corrected copy of the minutes was included under TAB 1 in the committee binders.

Co-chair Hillyard recognized Co-chair Bigelow for a motion on the minutes.

MOTION: Co-chair Bigelow moved to approve the minutes from June 17, 2008. The motion passed unanimously with President Valentine, Sen. Killpack, Sen. Davis, Sen. Knudson, and Rep. Moss absent for the vote.

2. Federal Funds/Non-Federal Grants Report

Federal Funds Report

Tenielle Young, Governor's Office of Planning and Budget, presented the Federal Funds Report through July 31, 2008. There were three new grants and three reapplications of existing grants requiring legislative action.

In regards to the federal grants tracked by the Governor's Office as of July 31, 2008, Co-chair Hillyard asked if the federal annual award of \$98 million for the Federal IDEA Special Education Funds Grant was the normal federal participation level. Tenielle Young stated that the \$98 million reflected normal participation for this program.

MOTION: Co-chair Bigelow moved to approve three new grants and three reapplications of existing grants requiring legislative action through July 31, 2008 listed in the Federal Funds Report. The motion passed unanimously with Pres. Valentine, Sen. Killpack, Sen. Knudson, Rep. Dee, and Rep. Moss absent for the vote.

Ms. Young also noted that eleven new grants and five reapplications of existing grants had been approved by the Governor's Office.

Co-chair Bigelow asked if there were other programs besides the First Time Motherhood/New Parents Initiative that promote educational and social support services for expectant mothers and new parents. George Delavan, Division Director, Community and Family Services, Department of Health, stated that this grant augments the Baby Your Baby media campaign and focuses in on the dangers of using certain substances during pregnancy.

Co-chair Bigelow also asked if there were other programs in addition to the Improving Utah Systems of Care for Children with Autism Spectrum Disorder Grant Program that coordinate health care and related services for children with autism spectrum disorder (ASD). Mr. Delavan explained that this grant expands existing services by providing training to health care providers including dentists and school teachers on how to identify and manage children with autism.

Non-Federal Grants Report

Ms. Young reported that there were no new non-federal grants requiring legislation through July 31, 2008.

3. Restricted Funds, Dedicated Credits, and Other Revenue Types Report

Ivan Djambov, LFA, and Richard Amon, LFA, presented the report: "Interim Report: Restricted Funds, August 19, 2008." The report examines the statutory requirements relating to restricted funds, reviews major revenue types, assesses Utah's compliance with the proposed GASB (Governmental Accounting

Standards Board) requirements, and addresses the impact of restricted funds on the General Fund.

Mr. Djambov reported on the major revenue types, types of restricted funds, and growth trends in restricted funds. Restricted revenue is comprised of collections deposited into separate funds that are designated for a specific purpose. The State's 179 restricted funds can be divided into two categories: "appropriation-required" funds or "no appropriations needed" funds. Two-thirds (120) of all 179 restricted funds are "appropriation-required" funds and one-third (59) are "no appropriation needed."

Mr. Djambov pointed out that the 59 funds in the "no appropriations needed" category received \$51.6 million in revenue and had balances of \$137.8 million in FY 2007. Spending authority for these funds is delegated to a governing board or an agency by statute. Utah Code states that all restricted special revenue funds are subject to annual legislative review.

Mr. Djambov commented that the number of restricted funds has grown over time. Figure 1, of the report, provides a historic overview of new restricted funds created, as well as restricted funds repealed since FY 1987. In FY 2009, the Legislature created 11 new restricted funds and repealed 3 restricted funds.

The Analyst recommends that the Legislature:

1. *prepare an annual report on all "no appropriation needed" restricted funds and distribute it to each appropriations subcommittee for review.*

Rich Amon, LFA, reviewed the proposed GASB standard that clarifies the accounting of special revenue funds. Mr. Amon explained that six of the State's 81 special revenue funds fail to meet the new GASB standard because their major source of funding is from transfers rather than collections.

The Analyst recommends that the Legislature:

2. *adopt standard language when creating new restricted funds to ensure that the State of Utah continues to be compliant with GASB standards.*
3. *direct the Division of Finance to keep the General Fund appropriations to the Capitol Preservation Board in the line item rather than transferring it to the State Capitol Fund.*
4. *reclassify the following restricted special revenue funds as General Fund Restricted accounts: Rangeland Improvement Fund, Rural Health Care Facilities Fund, and Invasive Species Mitigation Fund.*
5. *convert the LeRay McAllister Critical Land Conservation Fund to an appropriation line item at the Quality Growth Commission.*

Mr. Amon explained that the Uniform School Fund does not meet the strict interpretation of the GASB standard because funds are transferred in by an appropriation from the Education Fund rather than collecting the revenue directly. He added that the Division of Finance has written a letter to GASB asking for a clarification and possibly an exemption for the USF from this new rule.

Mr. Amon continued by discussing how restricted funds impact the General Fund. He stated that a growing number of restricted funds could reduce the Legislature's flexibility by reducing revenue availability for general purposes. Some restricted funds have statutory provisions requiring transfer of excess (above a set limit) revenue or requiring their earned interest to be deposited in the General Fund.

Mr. Amon noted that H.B. 410, 2008 General Session, required interest earnings of 11 General Fund Restricted accounts to be deposited in the General Fund rather than into the respective restricted fund. The expected increase to the General Fund for FY 2009 as a result of HB 410 is \$1.7 million. As of FY 2007 there were 73 restricted funds that retain earned interest. The estimated total interest from these funds for FY 2009 is \$44 million (23 million of which is from education-related funds).

The Analyst recommends that the Legislature:

6. *consider depositing the interest earnings of some restricted funds to the General Fund.*
7. *adopt standard language when creating most new General Fund Restricted accounts to require interest be deposited in the General Fund.*

Mr. Amon called attention to the list of restricted funds, revenues, 2007 fund balances and interest in Appendix A: Restricted Funds.

President Valentine suggested one additional recommendation, that staff identify restricted funds that no longer fit their usefulness whose funds could be placed back into the General Fund.

John Reidhead, Director, Division of Finance, emphasized the importance of following GASB standards.

Rep. Clark asked about differences in restricted fund balances and interest earnings listed in Appendix A. Rich Amon explained that the footnotes in Appendix A help clarify some of the anomalies. He stated that restricted funds with zero interest balances are funds whose interest has already been turned back into the General Fund. In instances where the interest earnings were significantly greater than fund balances, Mr. Ball explained that in some cases a fund earns interest not only on its own account balance but on other assets as well.

Sen. Goodfellow asked if would be more appropriate to convert the LeRay McAllister Critical Land Conservation Fund to an appropriations line item within a department rather than to the Quality Growth Commission. Mr. Amon stated that either option would be possible.

Co-chair Hillyard did not take any motion on the Analyst's recommendations, but indicated that they would be taken into consideration in November.

4. State Board of Education - Approved Performance-Based Compensation Plans

Larry Shumway, Deputy Superintendent, Utah State Office of Education, presented the report and commented on handouts that included a "Summary of One-Time Performance-Based Compensation Plans" and individual performance-based compensation plans from the Jordan School District, Juab School District, Duchesne County School District, City Academy, and Pinnacle Canyon Academy.

Legislators passed Senate Bill 281 "Use of Minimum School Program Nonlapsing Balances" during the 2008 General Session. The bill provides authorization to the State Board of Education to use \$25 million of Minimum School Program nonlapsing balances to provide one-time signing bonuses (\$5 million) for new educators and one-time performance-based compensation (\$20 million) in the school districts and charter schools.

In response to this legislation, the State Board of Education received and approved 88 performance-based compensation plans representing approximately 98 percent of the students in the state. All but three school districts submitted a plan, with Daggett, Tintic, and Uintah school districts opting not to participate in this program. A total of 51 charter schools submitted plans, with 18 charter schools not participating.

Mr. Shumway commented on some of the distinguishing elements of the performance-based compensation plans. He acknowledged the work of the school districts and charter schools in finding ways to creatively reward high performing employees.

Sen. Jones asked how the one-time performance-based compensation plans and one-time signing bonuses are allocated. Mr. Shumway stated that the one-time performance-based compensation plan is allocated on a per pupil basis and the one-time signing bonus is allocated at \$1,000 per qualifying teacher. He indicated that approximately 3,500 - 4,000 teachers could potentially qualify for this bonus.

Rep. Snow inquired about the Uintah School District's decision not to participate. Mr. Shumway stated that the Uintah School District had submitted a letter indicating that the process and the time involved was not conducive to the success they hoped to achieve in this kind of program.

Rep. Moss asked if there were any plans that had not been approved. Mr. Shumway stated that there were two school district plans and six charter school plans that the State Board had not approved. At the same time, the Board asked for additional information that would help these entities satisfy criteria set forth in statute.

Rep. Moss followed up by asking if any of those plans had been resubmitted. Mr. Shumway stated those plans are in the process of being resubmitted.

Rep. D. Clark asked Mr. Shumway if this was a worthwhile experiment. Mr. Shumway acknowledged that the work in developing performance-based compensation plans has been worthwhile in that it has drawn attention to challenges the State will face in moving toward a more permanent plan.

Rep. D. Clark asked if the State Board of Education was prepared to make decisions on a long term performance-based compensation plan or plans. Mr. Shumway stated that the State Board has a differentiated compensation work group that is working through these questions. He suggested the possibility of a core state plan which would allow for adaptation to meet local district circumstances.

Rep. D. Clark asked about the timing of performance results and general session budget considerations. Mr. Shumway stated that it would be unwise to rush into the 2009 session with a permanent statewide plan without reliable data. He indicated that the State Board will have more insight on how the participants are reacting to these plans by the time session convenes.

Sen. Hillyard commented on the number of plan responses to this legislation. Mr. Shumway said that school districts and charter schools have engaged many people in lots of discussion and have been mindful of the many collaborative team efforts that have been made thus far.

Sen. Hillyard asked if the \$1,000 differential pay is worthwhile to teachers. Mr. Shumway responded that teachers are very appreciative of differential pay.

Rep. Moss pointed out that changes in testing methods and student assessment should be factored into comprehensive performance-based compensation plans.

Sen. Goodfellow encouraged cross fertilization of successful programs statewide.

5. FY 2008 Revenue Update

Dr. Andrea Wilko, LFA, and Dr. Thomas Young, LFA, presented the report: "Revenue Update" dated August 19, 2008. The report focuses on two areas: (1) tax collections by major funding streams; and (2) economic indicators that are currently affecting the economy.

Dr. Wilko explained that economic growth in Utah is slowing due to concern over financial markets, the subprime mortgage crisis, increase in fuel and food prices, weak home construction, and wages outpaced by inflation. As a result, projected economic indicators and revenue collections are lower than expected in February.

General Fund revenues for FY 2008 are expected to be close to the February target (+/- \$5 million) while the Education Fund revenue will be below the February target by \$60 to \$80 million for that same year partially due to a change in income tax withholding tables. Total General and Education Fund revenues are therefore expected to be \$55 to \$85 million below February targets for FY 2008.

Similarly, the Transportation Fund has been impacted by the economic slowdown. The decrease in vehicle miles traveled as a result of high gas prices has caused a decline in Transportation Fund revenue on both the state and federal level.

On a positive note, Dr. Wilko stated that the subprime mortgage lending and financial market crisis should bottom out this year. The economic stimulus package has enhanced sales tax revenue and productivity. The depreciated dollar has enhanced tourism in the state as well.

On the other hand, job growth is expected to remain stagnant with employment slowing from 4 percent in 2007 to 0.4 percent in 2008 and growing to 1 percent in 2009. Wages continue to hold steady, but could be outpaced by inflation by one percent in the coming year.

Higher food prices are affecting consumer spending. The CPI for food rose 3.9 percent in 2007 and it is forecast to increase to 4.9 percent in 2009. In addition to food prices, the higher price of gasoline is limiting discretionary household income. Finally, Utah has seen the lowest level of home building in more than 10 years.

Rep. Bigelow asked about the percentage decrease in housing starts from 2007. Dr. Wilko stated that dwelling unit permits are projected to be down by about 40 percent from 2007. The number of permits

issued in 2008 is projected to be 13,000 compared to 20,500 in 2007, and 26,500 in 2006.

Sen. Jones inquired about trends at the federal level and the possible impact those changes will have on Utah, and in particular, Human Services. Jonathan Ball, LFA, responded that the Utah Department of Workforce Services saw a reduction of \$1.3 million in 2007 as a result of the Workforce Investment Act. He pointed out that proposed changes to Medicaid have been put on hold. If Utah's economy continues to perform better than other state economies, Utah can expect its share of the Medicaid program to go up. Finally, federal exposure to the mortgage crises will reduce discretionary monies for other programs.

6. Options for Facilitating Quorums in Appropriations Subcommittees

Jonathan Ball, Director, LFA, presented a study on ways in which the Legislature might address quorum issues in appropriations subcommittees. He referenced Tables 1 and 2, of the study under "Status Quo Appropriations Subcommittee Membership and Quorum Requirements" which demonstrate strains on subcommittee quorums because members of Legislative Management are often over scheduled and cannot attend meetings, or because members are assigned to more than one appropriations subcommittee and cannot be in two meetings at one time.

Mr. Ball reviewed six alternatives that included options for exceptions, consolidation, separation, and scheduling. He explained that Option 6 - Assign Legislators to Multiple Subcommittees and Schedule Subcommittees so they Don't Conflict, requires no change to legislative rule, increases membership on each subcommittee, and increases the probability of achieving a quorum.

Mr. Ball referenced Table 3, "Option 6 Appropriations Subcommittee Senate Membership and Quorum Requirements," to illustrate how this option would play out.

The reports recommendation is as follows:

The Analyst recommends adding Senators to the existing appropriations subcommittees and modifying meeting schedules to avoid schedule conflicts. In the Interim period, appropriations subcommittees meet as needed. Scheduling for such meetings can continue as such.

During General Sessions, appropriations subcommittees typically meet for three hours on Monday, Wednesday, and Thursday afternoons. The Analyst recommends shortening the length of subcommittee meetings to one and one-half hours and scheduling two blocks of meetings on those same afternoons, cutting the cumulative meeting time by one half.

To compensate, the Analyst further recommends holding additional appropriations subcommittee meetings prior to the beginning of General Session.

Mr. Ball also pointed out that if the constitutional amendment adjusting the start and length of the General Session is approved, three all day appropriations subcommittee meetings could be held prior to the beginning of General Session.

Mr. Ball called attention to the Appendix that shows appropriations subcommittee assignments during the 2008 General Session, identifies members of the Legislative Management Committee in each

chamber, and highlights legislators who serve on more than one appropriations subcommittee.

Rep. Bigelow commented that this study was intended to not only find ways to have equal representation in both the House and the Senate, but to also make it easier for the Minority Party to adequately attend the appropriations subcommittees. The suggestion to meet three full days prior to session is one of many possible scheduling options. Option 6 requires no statutory or rule change and it gives Leadership the flexibility to take care of other responsibilities.

Sen. Hillyard stated that no action would be taken on the Analyst's recommendations at this time.

Sen. Jones expressed concern about the lack of punctuality in attending meetings.

Sen. Hillyard reminded members that it is important to be on time.

7. Other Business

Mr. Ball informed the committee that the Office of the Legislative Fiscal Analyst will continue to work the 8:00 a.m. to 5:00 p.m. schedule five days a week.

Mr. Ball recognized Sarah Hamilton, who has worked for several months with the LFA economic team. Sarah attends MIT in Boston and leaves the LFA to continue a new school year.

Mr. Ball also recognized Debbie Headden who has worked for the LFA for more than ten years, specifically in Higher Education & Human Services. Debbie has accepted a position as Deputy Director of Finance at the Utah Department of Health.

Co-chair Hillyard entertained a motion to adjourn.

MOTION: Co-chair Bigelow moved to adjourn. The motion passed unanimously.

Co-chair Hillyard adjourned the meeting at 3:00 p.m.