

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS
COMMITTEE MEETING
December 15, 2009 at 3:00 P. M.
Room 445, Capitol Building, State Capitol Complex**

Members Present: Rep. Ron Bigelow, Co-Chair
 Sen. Lyle W. Hillyard, Co-Chair
 Sen. Peter C. Knudson, Vice Chair
 Rep. Bradley G. Last, Vice Chair
 Rep. David Clark, Speaker
 Rep. Brad L. Dee
 Rep. Kevin S. Garn
 Rep. James R. Gowans
 Sen. Scott K. Jenkins
 Sen. Patricia W. Jones
 Sen. Sheldon L. Killpack
 Rep. David Litvack
 Rep. Rebecca D. Lockhart
 Sen. Karen Mayne
 Rep. Carol Spackman Moss
 Sen. Wayne L. Niederhauser
 Sen. Luz Robles
 Sen. Ross I. Romero
 Rep. Jennifer M. Seelig
 Sen. Michael G. Waddoups, President

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

Speakers Present: Becky Brusco, Governor's Office of Planning and Budget
 Danny Schoenfeld, Legislative Fiscal Analyst
 John Whitehead, Division of Water Quality
 Sen. Mark B. Madsen
 Emily Brown, Legislative Research and General Counsel
 Melissa Smith, Community Action Partnership of Utah
 Jan Ferre, Legislative Coalition for People with Disabilities
 Kristen Cox, Department of Workforce Services

Note: A copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

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

1. Call to Order/Approval of Minutes

Committee Co-Chair Bigelow called the meeting to order at 3:36 p.m.

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

MOTION: Co-Chair Hillyard moved to approve the minutes of the Joint Executive Appropriations Committee meeting of November 17, 2009. The motion passed unanimously with Sen. Jenkins, Sen. Knudson, Sen. Mayne, Sen. Romero, Rep. Last, and Rep. Lockhart absent for the vote.

Pres. Waddoups reported that the Department of Corrections and the Department of Community and Culture had satisfactorily responded to his inquiries regarding federal assistance applications on last month's Federal Funds/ARRA/Non-Federal Grants Reports. He indicated that he had not heard back from the Department of Natural Resources on a number of issues.

2. Federal Funds/ARRA/Non-Federal Grants Reports

Becky Bruso, Governor's Office of Planning and Budget, presented the Federal Funds/ARRA/Non-Federal Grants Reports through November 30, 2009. There were two new federal grants and one reapplication of an existing grant requiring legislative action. The Governor's Office approved four new federal grants and three reapplications of existing grants.

Pres. Waddoups asked for more definitive information about the Department of Environmental Quality's reapplication for federal assistance, Clean Water Act Program. The program has significant annual match requirements coming from local/other sources as well as the state.

John Whitehead, Division of Water Quality, explained that this program funds a variety of on-the-ground projects such as stream channel restoration resulting from erosion, and animal feeding operations that keep runoff from entering streams. Mr. Whitehead went on to explain the difference between a point and a non-point source of pollution. A point source refers to a pipe or a factory that discharges pollution to a stream or water body. A non-point source is a forestry project, a farming operation, or an eroding stream channel that diffuses pollution over a large area.

Pres. Waddoups mentioned a constituent who is concerned about neighbors changing the stream flow of one of the major tributaries in the state. The constituent has not been able to get anyone in government to help him in this matter. Pres. Waddoups expressed concern about the amount of money being used to abate natural erosion. He suggested it might be better to protect streams against actions such as these than to be concerned about natural erosion.

Mr. Whitehead pointed out that since its inception, the Clean Water Act has been very successful in regulating point sources of pollution. However, the larger share of pollution in our water bodies today is from non-point sources. There is a significant need to address non-point sources not only in Utah but in other states as well.

Pres. Waddoups requested that the Division of Water Quality provide him with additional information.

Danny Schoenfeld, LFA, called attention to the memorandum, "Federal Funds Follow Up, December 15, 2009," after page 60 of the Federal/ARRA/Non-federal Grants Reports. The memorandum includes a response from the Department of Natural Resources on two grant programs that Pres. Waddoups had previously inquired about.

Ms. Bruso presented the ARRA Federal Funds Report. There were four new grants and no reapplications of existing grants requiring legislative action. The Governor's Office approved one grant and no reapplications of existing grants.

Ms. Bruso presented the Non-Federal Grants Report. There were no new grants and no reapplications of existing grants requiring legislative action. The Governor's Office approved one new grant and no reapplications of existing grants.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to approve the two new federal grants and one reapplication of an existing federal grant requiring legislative action, as shown on page 1, with detail on page 3, and four new ARRA federal assistance applications requiring legislative action, as shown on page 39, with detail on page 41; of the packet dated today, December 15, 2009. The motion passed unanimously.

3. Capitol Preservation Board Fees (Agenda Item 9)

Co-Chair Bigelow changed the agenda to accommodate timing issues and addressed Agenda Item 9, Capitol Preservation Board Fees.

A copy of draft legislation, "State Capitol Preservation Board Fee Amendments," was distributed.

Sen. Mark B. Madsen explained that the bill amends the State Capitol Preservation Board fee schedule for the current fiscal year and establishes rental rates for State Capitol facilities during the 2010 General Session.

Sen. Madsen stated that the legislation provides affordable, equal access to entities wishing to use State Capitol facilities. The legislation makes it possible for groups to use designated rooms in the State Capitol for four hour blocks of time twice a week at no charge. Sen. Madsen noted a few exceptions to the fee schedule.

Rep. Dee pointed out that the Capitol Preservation Board met with many stakeholders, profit and non-profit, all of whom agreed that the fee schedule was fair.

Sen. Jones asked about the potential loss of revenue. Sen. Madsen noted that the fees are dedicated credits. The Board took the loss of revenue into account during its discussions, but Sen. Madsen did not have that information.

Emily Brown, Associate General Counsel, LRGC, reviewed the current range of fees.

Sen. Jones inquired about the net effect of the fee changes. Co-Chair Bigelow indicated that staff would check on this.

Pres. Waddoups indicated that the net loss in a year's period would be less than \$100,000.

Pres. Waddoups commended Sen. Madsen for his efforts in preparing this legislation.

Rep. Litvack asked if a fee is charged for free speech rallies held in the Rotunda outside the hours of 7:00 A.M. to 5:30 P.M.

Sen. Madsen explained that there is no baseline fee for free speech activities.

Pres. Waddoups clarified that if a group requests exclusive use of the Rotunda, statute requires that a fee be charged. If a group does not require exclusive use, no fee is charged. Group activities need to be cleared through the Capitol Preservation Board, and an application must be submitted along with a \$10.00 processing fee.

Co-Chair Bigelow asked for public comment.

Melissa Smith, Community Action Partnership of Utah and Family Investment Coalition, commented that Capitol Preservation Board rule preserves free speech activities on the Capitol Hill Complex. Ms. Smith thanked the committee for preserving access to rooms at the State Capitol for nonprofit organizations.

Jan Ferre, Legislative Coalition for People with Disabilities, expressed her appreciation for being included in these discussions. She inquired about the 7:00 A.M. to 5:30 P.M. hours of accessibility.

Sen. Jones asked if there was a fiscal note on the bill. Co-Chair Bigelow stated that when the bill is finalized it will be assigned to the Fiscal Analyst's office for a fiscal note.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to adopt 2010 General Session draft legislation, "State Capitol Preservation Board Fee Amendments," as a committee bill.

Sen. Madsen clarified that originally the hours of accessibility were 7:00 A.M. to 6:00 P.M., but were changed to 7:00 A.M. to 5:30 P.M. to allow for set up for other events booked later on in the evening. Sen. Madsen asked for a favorable vote on the bill. He would like to present the bill for passage on the first day of Session so that it can take effect immediately.

A vote was taken on the motion. The motion passed unanimously with Pres. Waddoups, Rep. Garn, and Rep. Gowans absent for the vote.

Co-Chair Bigelow stated that Agenda Item 3, In-Depth Budget Review: Department of Workforce Services, would be heard later on in the meeting.

4. Adopt Revenue Estimates

Jonathan Ball, LFA, called attention to the cherry sheet behind Tab 4, "Revenue Estimates - December 2009." He explained that the new revenue estimates are consensus revenue estimates with the Governor's Office of Planning and Budget and the Utah State Tax Commission.

MOTION: Co-Chair Hillyard moved to adopt the revised revenue estimates for FY 2010 and FY 2011 as indicated on page 1 of the cherry sheet titled "Revenue Estimates - December 2009" and dated today, December 15, 2009. The motion passed unanimously with Pres. Waddoups, Rep. Garn, and Rep. Gowans absent for the vote.

5. Adopt Appropriations Limit Estimate

Jonathan Ball, LFA, called attention to the white sheet behind Tab 5, "Appropriations Limit - December 15, 2009 Executive Appropriations Committee."

MOTION: Co-Chair Hillyard moved to adopt the Fiscal Year 2010 and 2011 appropriation limit estimates as indicated on the sheet entitled, "Appropriations Limit - December 15, 2009 Executive Appropriations Committee." The motion passed unanimously with Pres. Waddoups, Rep. Garn, and Rep. Gowans absent for the vote.

6. Subcommittee Allocations and EAC Set-Asides

Jonathan Ball, LFA, called attention to the green sheet behind Tab 6, "Subcommittee Allocations (General and Education Funds)" dated December 15, 2009. He explained that under Joint Rule 3-2-402(2)(a)(ii), the Executive Appropriations Committee can set aside special allocations for use at the end of the General Session. Subcommittee allocations on the green sheet represent 95 percent of FY 2010 ongoing appropriations.

MOTION: Under Joint Rule 3-2-402(2)(a)(ii), Co-Chair Hillyard moved to set aside \$100 million from FY 2011 Estimated Revenue as a special allocation for use at the end of the General Session. The motion passed unanimously with Pres. Waddoups, Rep. Garn, and Rep. Gowans absent for the vote.

MOTION: Co-Chair Hillyard moved to allocate to appropriations subcommittees for FY 2011 the General Fund and Education Fund totals listed on the green sheet titled, "Subcommittee Allocations (General and Education Funds)" dated today, December 15, 2009. This allocation represents a 5% reduction from FY 2010 ongoing appropriations. The Executive Appropriations Committee is asking the appropriations subcommittees to create a list of potential reductions to reach the amounts in this allocation.

Co-Chair Hillyard stated that the 5 percent reduction allows for some leeway in the event that revenues do not come in as expected in February.

Co-Chair Bigelow stated that the intent of this motion is to maintain flexibility until the subcommittees have an opportunity to weigh in and make recommendations on their respective budget allocations.

Rep. Litvack asked what action would be taken if an appropriations subcommittee could not in good conscience come up with a list of 5 percent cuts.

Co-Chair Hillyard responded that this is a difficult process. The Co-Chairs of Executive Appropriations Committee have the responsibility of understanding the overall budget of each of the subcommittees. If a subcommittee is unable to make these cuts, the Co-Chairs will make their own recommendations.

Co-Chair Hillyard commented that the people of Utah expect us to balance the budget. Every program is worthwhile or it would not have been funded originally. Therefore, input from the subcommittees and the departments is critical in making informed decisions about what gets cut.

Co-Chair Bigelow stated that legislators have the right and the responsibility to make determinations on the budget.

Rep. Litvack emphasized that the appropriations subcommittees need to have clear direction on what they are being asked to do.

Co-Chair Hillyard stated that the Executive Appropriations Committee honors the work of the subcommittees, and he encouraged them to consider different budgeting options.

Sen. Killpack commented that the subcommittees really did their work last year and received tremendous cooperation from the departments. He anticipates nothing less this year. Sen. Killpack appreciated the Executive Branch reaching out to partner with the Legislature in putting forth the Governor's budget.

Co-Chair Bigelow called for a vote on Co-Chair Hillyard's motion.

The motion passed unanimously with Pres. Waddoups, Sen. Niederhauser, and Rep. Gowans absent for the vote.

MOTION: Co-Chair Hillyard moved to allocate to the appropriations subcommittees for FY 2010 an amount equal to a negative 4 percent of FY 2010 ongoing appropriation. The Executive Appropriations Committee is asking the appropriations subcommittees to create a list of potential reductions to reach a 4 percent reduction in the current year.

Co-Chair Hillyard explained that the 4% reduction is needed to cover FY 2010 revenue shortfalls. He commended the Governor for preserving \$250 million in the Rainy Day Fund. Co-Chair Hillyard stated that FY 2010 and FY 2011 are not the last years that Utah will be struggling with budget shortfalls.

Rep. Litvack asked Co-Chair Hillyard to contrast the Governor's 3 percent across the board reduction with the Executive Appropriations Committee's 4 percent reduction for FY 2010.

Co-Chair Hillyard explained that the Governor's 3 percent across the board personnel cut is \$39 million, which represents about 1.7 percent of total General and Education fund appropriations. In addition to some backfill, Public Education was held harmless by using money taken out of the \$100 million fund, set-aside as one-time money.

The Legislature is at the beginning of its budgeting process and EAC is asking the subcommittees to see what reductions and reforms they can make to address the shortfall.

Co-Chair Hillyard stated that the Governor's 3 percent reduction takes effect immediately. He said that his next motion proposes that the appropriations subcommittees meet on January 12 and January 20 to begin working on the 4 percent list of reductions for FY 2010, and begin preparing the budget for FY 2011.

Sen. Jones thanked Co-Chair Hillyard for meeting with the Senate Minority Leadership to explain this rationale.

Co-Chair Bigelow explained the Governor is at the end of his budget process, having presented his final budget, while the Legislature is at the beginning of its process with all options open. He commented that the Governor and the Governor's Office of Planning and Budget have done a tremendous job in putting together their budget.

Co-Chair Hillyard called for a question on the motion.

The motion passed unanimously with Sen. Niederhauser and Rep. Gowans absent for the vote.

7. Subcommittee Meeting Schedule

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to authorize appropriations subcommittees to meet on January 12 and 20, 2010. The motion passed unanimously with Sen. Niederhauser and Rep. Gowans absent for the vote.

8. Base Budget Bills

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to authorize legislative staff to prepare and number "State Agency and Higher Education Base Budget" and "Minimum School Program Base Budget Amendments" as Executive Appropriations Committee bills to be introduced on the first day of the 2010 General Session. Staff shall include in these bills:

1. 98% of ongoing General, Education and Uniform School Fund appropriations defined in the current year's appropriations acts;
2. Restricted fund reductions included in agency budget requests; and
3. Adjustments to dedicated credits, nonlapsing balances, and non-ARRA federal funds included in agency budget requests as allowed under the Budgetary Procedures Act.

In consultation with the Co-Chairs of the Executive Appropriations Committee, the Legislative Fiscal Analyst may make any technical changes necessary.

Co-Chair Hillyard explained that this base budget factors in the \$88 million shortfall for FY 2011, a 2 percent reduction from FY 2010 ongoing appropriations. He stated that changes to the base budget can be made by amending the base budget in the New Year Supplemental and the Bill of Bills later on in the session.

The motion passed unanimously with Sen. Niederhauser and Rep. Gowans absent for the vote.

9. In-Depth Budget Review: Department of Workforce Services (Agenda Item 3)

Danny Schoenfeld, LFA, introduced the In-Depth Budget Review: Department of Workforce Services, and highlighted seven recommendations.

Mr. Schoenfeld elaborated on the recommendation that the Legislature reassert its legal and constitutional budget authority by appropriating DWS' budget in separate line items beginning in FY 2011, and/or requiring DWS to report to the Legislature on funding reallocations between programs in their line items prior to making such allocations. Mr. Schoenfeld stated that in the review process, it became apparent that there were some difficulties in tracking administration, case management, customer benefits, and providing transparency to the Legislature and other constituent groups. Acting on this recommendation will provide greater transparency for the Department and the Legislature in future years.

A handout, "Department of Workforce Services, Legislative Fiscal Analyst/In-Depth Budget Review, Agency Response," was distributed.

Kristen Cox, Executive Director, Department of Workforce Services, responded to the budget review recommendations and described how DWS is currently managing its budget. She stated that the Department does not oppose or supports four of the seven recommendations.

Ms. Cox stated that DWS strongly opposes splitting the agency's current single line item into multiple line items and is committed to ensuring the Legislature has access to all relevant DWS data to provide transparency, oversight, accountability and quality budget management.

Ms. Cox stated that DWS is also committed to customer service and maximizing tax payer resources. DWS has done a great job managing its budget and is not asking for any supplementals this year despite

caseload growth. She requested that the Legislature not take any action on these recommendations until LFA and DWS can come up with concrete solutions.

Co-Chair Hillyard recommended that Ms. Cox report to the Commerce and Workforce Services Appropriations Subcommittee on January 12 and January 20 allowing them to take a look at these issues and report back to Executive Appropriations Committee.

Co-Chair Hillyard brought up the point that there is no cap on the number of individuals who can receive food stamps, and that those who do receive food stamps, do not pay tax on food.

Co-Chair Hillyard asked how the Healthcare Reform Bill is going to impact DWS programs. Ms. Cox mentioned that one appropriation bill will extend unemployment insurance benefits. DWS is also looking at other appropriations bills to determine if there will be other impacts. Ms. Cox offered to provide the committee with a summary of those impacts as they become available.

Speaker Clark inquired about the Random Moment Time Sampling (RTMS) System and its potential use as a performance baseline unit of measurement.

Co-Chair Bigelow expressed appreciation to the Executive Branch and to Ms. Cox for the work they are doing in trying to meet the needs of the state.

10. Other Business

Co-Chair Bigelow directed the committee's attention to the written reports behind Tab 10: (1) Department of Health Report on Medicaid Plan Changes; (2) Child Welfare Legislative Oversight Panel's Budgetary Proposals; (3) LFA Report on Funds Expended on Services to Low-Income Individuals; and (4) Legislative Compensation Commission Report.

Co-Chair Bigelow stated that the chairs will be reviewing future reports to determine if it would be more appropriate to have them heard in the appropriations subcommittees.

Pres. Waddoups requested more information on four grant applications being tracked by the Governor's Office: (1) GOED's State Planning Grants Health Care Access for Uninsured; (2) Natural Resources' Hunter Education Program; (3) Natural Resources' State Wildlife Grant Program; and (4) Natural Resources' Wildlife Management Program.

Pres. Waddoups mentioned that a number of his constituents were concerned about new hunting restrictions and are prepared to testify before the Natural Resources Appropriations Subcommittee.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to adjourn. The motion passed unanimously with Rep. Gowans and Rep. Seelig absent for the vote.

Co-Chair Bigelow adjourned the meeting at 5:15 p.m.