

**MINUTES OF THE  
JOINT EXECUTIVE APPROPRIATIONS COMMITTEE**

Tuesday, July 19, 2011 - 1:00 p.m. - Room 445 State Capitol

**Members Present:**

Sen. Lyle W. Hillyard, Co-Chair  
Rep. Melvin R. Brown, Co-Chair  
Rep. John Dougall, Vice Chair  
Sen. Scott K. Jenkins  
Sen. Patricia W. Jones  
Sen. Peter C. Knudson  
Sen. Benjamin M. McAdams  
Sen. Karen W. Morgan  
Sen. Wayne L. Niederhauser  
Sen. Ross I. Romero  
Sen. Michael G. Waddoups, President  
Rep. Brad L. Dee  
Rep. Gregory H. Hughes

Rep. Brian S. King  
Rep. Rebecca D. Lockhart, Speaker  
Rep. Ronda Rudd Menlove  
Rep. Jennifer M. Seelig  
Rep. Christine F. Watkins

**Members Excused:**

Sen. Kevin T. Van Tassell, Vice Chair  
Rep. David Litvack

**Staff Present:**

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

**Note:** A list of others present, 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**

Co-Chair Hillyard called the meeting to order at 1:35 p.m.

Co-Chair Hillyard excused Rep. Litvack and Sen. Van Tassell from the meeting.

**MOTION:** Rep. Dougall moved to approve the minutes of the June 14, 2011 meeting. The motion passed unanimously with Sen. McAdams and Co-Chair Brown absent for the vote.

**2. Federal/Non-Federal Grants Reports**

Becky Bruso, Governor's Office of Planning and Budget, presented the Federal/Non-Federal Grants Reports. There were two new federal grants and seven reapplications of existing grants requiring legislative action. The Governor's Office approved four new federal grants and seven continuations of existing grants. There were no ARRA or non-federal grants to approve.

President Waddoups inquired about the USTAR i6 Green Challenge. Ms. Bruso explained that i6 Green Challenge is a continuation of the Technology Commercialization Grant and will award grants to private companies working in partnership with higher education institutions to commercialize renewable energy.

President Waddoups asked about the funding for the Department of Human Services, Chafee Foster Care Independence Program. Ms. Bruso explained that the funding helps youth between the ages of 18 and 21 years old with rent, meals, training on life skills, post secondary education, and vocational training, on a case by case basis.

President Waddoups suggested that the Division of Child and Family Services look at the possibility of keeping these youth in foster care for a longer period of time. Ms. Bruso stated that she would follow up with the Division of Child and Family Services, noting that allowing youth to stay in their foster homes longer would require a statutory change.

President Waddoups expressed concerns about the Department of Public Safety's request for an additional \$213,983 state match on the previously approved FY 2011 Emergency Management Performance Grant. Ms. Bruso indicated that the \$213,983 is an in-kind match from the DPS's existing budget that was not budgeted for when the grant was originally approved.

Rus Fillmore, Finance Manager, Division of Emergency Management, clarified that the DPS request did not represent new money.

President Waddoups requested that the grant not be included in the motion to approve the federal grants.

President Waddoups asked how the funding for the Department of Health, HIV/AIDS Surveillance: Enhancing Laboratory will be used. Ms. Bruso explained that the current computer system that they have for tracking diseases is not able to report HIV and AIDS. This information will be added to the database.

Ron Bigelow, Executive Director, Governor's Office of Planning and Budget, further explained the DPS request. When the Legislature approved the grant originally, the state/local match was split 50/50. What changed was the ratio of the state/local match money. DPS reduced the local match and increased the state match in order to keep more of the federal funds at the state level. The total amount of dollars did not change and there was no new money. DPS is using existing in-kind expenses.

Sen. Hillyard asked if the federal funds report should have reflected the decrease of \$213,983 in the local/other column. Mr. Bigelow confirmed that the decrease should have been included.

Sen. Waddoups requested more information on the in-kind match and what it is being used for.

**MOTION:** Co-Chair Brown moved to recommend acceptance of the federal grants outlined on page 1 of "Federal/Non-Federal Grants Review and Approval" under the heading, "Grants Requiring EAC Review and Recommendation" with the exception of Item 8 on page 1, and dated today, July 19, 2011. The motion passed with Sen. McAdams and Speaker Lockhart absent for the vote.

Rep. Dee asked that the grant descriptions include outcomes. Ms. Bruso responded that the Governor's Office will include some metrics or outcomes into those descriptions.

### **3. Deferred Maintenance Report**

Rich Amon, LFA, discussed the Issue Brief, "Capital Improvements and Deferred Maintenance."

Mr. Amon explained that statute requires that the Legislature fund capital improvements at a level equal to 1.1 percent of the replacement value of existing state buildings before the Legislature may approve new capital development projects. Due to declining revenues over the past four years, the Legislature amended statute for fiscal years 2009 to 2012 to allow funding for capital improvements to drop below 0.9 percent of the replacement value of buildings. For FY 2012, the Legislature appropriated \$53.7 million, which represents 0.63 percent of the replacement value of buildings in FY 2012. To get to the 1.1 percent level in FY 2013, the Legislature will need to appropriate about \$52 million more to the budget.

Mr. Amon also discussed deferred maintenance on buildings. The most recent Facility Condition

Assessment identified \$439 million in "immediate" repair needs to buildings and infrastructure and \$1.4 billion of additional needs in the next five to ten years. Since capital improvement funds cannot address all of the issues, the Legislature would need to fund capital development projects to either make repairs or replace buildings.

Mr. Amon commented that deferring maintenance projects is not a viable long-term strategy. He noted that bond rating agencies pay particular attention to the needs and funding of state infrastructure and will be watching future capital improvement funding.

Lynn Hinrichs, DFCM, asked that the committee give the capital improvements requests serious consideration.

Mr. Amon responded to committee questions.

#### **4. State Debt Update**

Rich Amon, LFA, discussed the Issue Brief, "Update on State Debt."

Mr. Amon commented that interest rates are very favorable right now and that the last issuance of general obligation bonds was at 2.78 percent.

Mr. Amon also noted that the three credit rating agencies reaffirmed Utah's 'AAA' bond rating. However, Standard and Poor's observed that Utah does not have a priority of payment to debt service in statute, nor does it have a debt management policy. In addition, Utah has a high age dependency and its general obligation debt is increasing and has doubled in recent years.

Mr. Amon discussed property values and the constitutional debt limit. Currently, the fair market value of Utah property is \$280 billion (a 4 percent decline from last year), which limits general obligation debt to \$4.2 billion. After the July 2011 issuance, the state has approximately \$3.7 billion of bonds outstanding or 87 percent of the constitutional debt limit. He noted that the Legislature has a practice of limiting debt authorization to about 85 percent of the constitutional debt limit, which allows the state to respond to unforeseen circumstances or declines in property values.

Mr. Amon discussed the calculation on the constitutional debt limit. Neither the constitution nor statute precisely defines how to make the calculation including what is meant by "last assessment" of taxable property, and what should be included in assessed property. LFA proposes that a working group consisting of LFA, the Governor's Office, the Treasurer, the Division of Finance, and the Tax Commission explore and make recommendations on specific changes the Legislature can make in statute to clarify how to calculate the constitutional debt limit.

Mr. Amon stated that transportation projects have had the most influence on the constitutional debt limit in recent years. Critical Highway Needs Fund and Transportation Investment Fund highway projects comprise \$2.7 billion of outstanding debt in FY 2012. He indicated that revenue streams will be sufficient to pay the debt service on existing bonds, but current revenue estimates do not support additional bond or cash-funded highway projects until FY 2015. Mr. Amon recommended that the State not issue substantial new bond authorizations for at least a year, and use cash if funding is needed for infrastructure.

Mr. Amon responded to committee questions regarding the 85 percent debt limit.

David Damschen, Chief Deputy, State Treasurer, stated that he was not aware of a best practice but that he would look into the history of the 85 percent debt limit policy and provide more information.

Co-Chair Brown commented that many times we don't realize that the debt limit on general obligation bonds is tied to the value of real property. The valuation of property could drop so low that our debt is greater than the value of the property. Eighty-five percent has given Utah a lot of latitude to deal with the ups and downs in property values.

**MOTION:** Co-Chair Brown moved to direct the Legislative Fiscal Analyst to form a working group to define how and when the constitutional debt limit is calculated and recommend to this committee any necessary changes in statute. This same working group should recommend statutory changes to prioritize debt service payments among other expenditures. These recommendations should be presented to the Executive Appropriations Committee before the next session of the Legislature. The motion passed unanimously with Rep. Watkins absent for the vote.

Co-Chair Hillyard mentioned that the Executive Appropriations Committee would be hearing a report on H.B. 138, Federal Receipts Reporting Requirements, in November. He asked the Governor's Office to remind the agencies to report back to LFA by August with contingency plans for funding if federal money is cut off.

## **5. Fiscal Note/Building Block Follow-up**

Steven Allred, LFA, presented the annual "Fiscal Note and Building Block Follow-up Report."

Mr. Allred indicated that this year's report is the fourth in a series of annual reports designed to enhance accountability in the appropriations process. The report looks at 74 different items and uses a stop light format (green, yellow, or red) in three categories: implementation, accuracy, and performance. In most cases, LFA followed up on items from the 2009 and 2010 General Sessions.

Analysts responded to committee questions.

President Waddoups asked about the DABC Main Street closure and commented on findings in the follow-up report. Dr. Young stated that based on one quarter of data, DABC's profit is up by about \$47,000, or, on an annualized basis, by about \$188,000. Dr. Young responded to further questions on this matter.

## **6. Report on Implementation of S.J.R. 5, 2011 G.S.**

Stan Eckersley, LFA, presented the Issue Brief, "Bills that Affect the State Budget Process: S.J.R. 5, Performance Notes."

S.J.R. 5, 2011 General Session, creates Joint Rule 4-2-404 which requires a performance note on bills that create a new program or significantly expand an existing program.

Mr. Eckersley reviewed the performance note process, including determination and notification

procedures, legislative follow-up, and time constraints. He pointed out that the bill sponsor may dispute the Fiscal Analyst's determination as well as the agency's performance note. Once the Legislature passes a bill with a performance note, the Legislative Auditor General will review each new agency or program and report their findings annually to the Executive Appropriations Committee.

Mr. Eckersley asked for the committee's input on two points: a proposed definition that clarifies what "significantly expanding an existing program" means, and if the Legislature intended S.J.R. 5 to include all building blocks.

Sen. Jones asked what impact the performance requirement will have on LFA's work load. Mr. Eckersley stated that if S.J.R. 5 applies only to bills, there should only be a handful of performance notes. If the S.J.R. 5 includes all building blocks, then LFA's workload would increase significantly.

**MOTION:** Co-Chair Brown moved to ratify the procedures for performance notes as presented in the Issue Brief entitled, "S.J.R. 5, Performance Notes," and as discussed. The motion passed with Sen. Jenkins, Sen. Knudson, Rep. Dougall, Rep. Hughes, and Rep. Watkins absent for the vote.

Sen. Niederhauer felt that the performance review process should apply to both building blocks and the base budget. He commented that the performance review may slow up the legislative process but would produce better bills.

## **7. Report on Cigarette Tax Restricted**

Dr. Thomas Young, LFA, presented the Issue Brief, "Cigarette Tax Restricted Account."

Dr. Young reported that revenue to the Cigarette Tax Restricted Account will likely be about \$1.0 million lower than anticipated in FY 2011, and \$2.5 million lower in FY 2012.

Dr. Young noted three reasons for the shortfall. The first reason was an unintended accounting difference. Increasing the tax rate per pack of cigarettes by one dollar decreased consumption by 15 percent. The Cigarette Tax Restricted Account is experiencing all of the quantity decrease and none of the revenue increase from the 2011 tax change. When the fiscal note was written, Dr. Young and the Tax Commission assumed that the new revenue from the 2011 tax increase would be treated consistently across fund accounts. In practice, the Cigarette Tax Restricted Account is only getting its portion of the total cigarette tax rate. By allocating funds this way, the General Fund portion is \$1 million higher than anticipated and the Cigarette Tax Restricted Account is \$1 million lower than anticipated.

The second reason behind the shortfall occurred when the Tax Commission changed from an accrual system to cash accounting for the last two months of FY 2011. The Tax Commission now accounts for disbursements from the Cigarette Tax Restricted Account when the payment for the stamps is made, and not when the stamps are sold. This accrual adjustment accounts for \$1.1 million of the \$2.5 million FY 2012 shortfall.

The third reason for the shortfall is that consumers are buying fewer cigarettes.

Dr. Young also pointed out that current appropriations to the Department of Health and the University of Utah have not matched statutory distribution since FY 2003. The Department of Health should receive \$0.61 for every \$1 the University of Utah receives of the 2002 tax increase. This only happened in the first year. Since 2004, the Health Department has received \$0.67 for every \$1 the University of Utah has received.

Dr. Young briefly discussed five items for legislative action. The Analyst recommends Item 2: Amend statute so that deposits to the Cigarette Tax Restricted Account are not adversely impacted by the 2011 tax rate change, and Item 3: Amend statute to take out the percentage allocations or adjust the FY 2012 and FY 2013 appropriation to match statute.

**MOTION:** President Waddoups moved that the Chairs of the Executive Appropriations Committee work with staff and prepare legislation that would come up with a solution which would be a combination of Items 2 and 3, that is, to clarify legislative intent and to fix the statutory percentages.

Dr. Young responded to committee questions.

The motion passed unanimously with Sen. Jenkins, Rep. Dougall, Rep. Hughes, and Rep. Watkins absent for the vote.

## **8. Other Business**

Co-Chair Hillyard announced that the Executive Appropriations Committee would not be meeting in August and that the next committee meeting was scheduled for September.

**MOTION:** Co-Chair Brown moved to adjourn. The motion passed unanimously with Sen. Jenkins, Rep. Dougall, Rep. Hughes, and Rep. Watkins absent for the vote.

Co-Chair Hillyard adjourned the meeting at 3:43 p.m.